

An index and study by The Economist Intelligence Unit

# The 2017 Infrascope

## Evaluating the environment for public-private partnerships in Latin America and the Caribbean





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## About this report

This document is the fifth edition of an informational tool and benchmarking index that assesses the capacity of countries in Latin America and the Caribbean to carry out sustainable public-private partnerships (PPPs) in infrastructure. The first study was developed in 2009 and updated in 2010, 2012 and 2015; the 2017 iteration features a new methodology. The analysis and content of this index cover the period from September 2016 to March 2017. The index was built by The Economist Intelligence Unit and is supported financially by the Inter-American Development Bank (IDB). The views and opinions expressed in this publication are those of The Economist Intelligence Unit and do not necessarily reflect the official position of the IDB.

The complete index, as well as detailed country analyses, can be viewed on the following website: [infrascope.eiu.com](http://infrascope.eiu.com)

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*For further information, please contact:*

### **The Economist Intelligence Unit**

Leo Abruzzese, Project Director:  
[leoabruzzo@eiu.com](mailto:leoabruzzo@eiu.com)

Romina Bandura, Project Manager:  
[rominabandura@eiu.com](mailto:rominabandura@eiu.com)

Atefa Shah, Project Manager:  
[atefashah@eiu.com](mailto:atefashah@eiu.com)

Robert Smith: Project Analyst:  
[robertsmith@eiu.com](mailto:robertsmith@eiu.com)

Jennifer Wells, Marketing Executive:  
[jenniferwells@eiu.com](mailto:jenniferwells@eiu.com) /+44(2)7 576 8224

### **Inter-American Development Bank**

Mauro Alem, Senior Infrastructure Specialist:  
[mauroa@iadb.org](mailto:mauroa@iadb.org)

David Bloomgarden, Chief of the Inclusive Cities,  
Multilateral Investment Fund (MIF):  
[davidb@iadb.org](mailto:davidb@iadb.org)

### **About The Economist Intelligence Unit**

The Economist Intelligence Unit is the research arm of The Economist Group, publisher of *The Economist*. As the world's leading provider of country intelligence, we help governments, institutions and businesses by providing timely, reliable and impartial analysis of economic and development strategies. Through our public policy practice, The Economist Intelligence Unit provides evidence-based research for policymakers and stakeholders seeking measurable outcomes in fields ranging from gender and finance to energy and technology. We conduct research through interviews, regulatory analysis, quantitative modelling and forecasting, and display the results via interactive data visualisation tools. Through a global network of more than 350 analysts and contributors, The Economist Intelligence Unit continuously assesses and forecasts political, economic and business conditions in more than 200 countries.

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### **About the Inter-American Development Bank**

The Inter-American Development Bank's (IDB) mission is to improve lives. Founded in 1959, the IDB is one of the main sources of long term financing for economic, social and institutional development in Latin America and the Caribbean. The IDB also conducts cutting-edge research projects and provides policy advice, technical assistance, and training to public and private clients throughout the region.



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Juan Andrés Abarca Castro, Diane Alarcon, Priya Bapat, Renata Diniz, Natan Levy, Guilherme Naves (Radar PPP), Marcos Siqueira (Radar PPP), Francisco Javier Treviño Moreno and Marcelo Villeña.

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# Infrascope categories and indicators

The Infrascope index comprises 23 indicators and 78 sub-indicators, both qualitative and quantitative in nature. Data for the quantitative indicators are drawn from The Economist Intelligence Unit and from the World Bank Public Participation in Infrastructure (PPI) Database. Some gaps in the quantitative data have been filled by estimates produced by The Economist Intelligence Unit.

The qualitative data come from a range of primary sources (legal texts, government websites, press reports and interviews) and industry reports.

The 5 categories and 23 indicators of the index are as follows (Appendix II provides detailed definitions and the full list of sub-indicators):

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## 1 Regulations

- 1.1 Conducive regulatory environment
- 1.2 PPP selection criteria
- 1.3 Fairness/openness of bids and contract changes
- 1.4 Conciliation schemes
- 1.5 Regulators' risk-allocation record
- 1.6 Co-ordination among government entities
- 1.7 Renegotiations
- 1.8 Sustainability

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## 2 Institutions

- 2.1 PPP institutional framework
- 2.2 Stability of PPP dedicated agency
- 2.3 Project preparation facilities
- 2.4 Transparency and accountability

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## 3 Maturity

- 3.1 Experience with infrastructure PPP contracts
- 3.2 Expropriation risk
- 3.3 Contract termination

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## 4 Investment and business climate

- 4.1 Political effectiveness
- 4.2 Business environment
- 4.3 Political will
- 4.4 Competition environment in the local industry

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## 5 Financing

- 5.1 Government payment risk
- 5.2 Capital market for private infrastructure finance
- 5.3 Institutional investors and insurance market
- 5.4 Currency risk

# Introduction

Major improvements in infrastructure in Latin America and the Caribbean (LAC) are needed in the next decade to sustain economic growth and social progress. According to the United Nations Economic Commission for Latin America and the Caribbean (ECLAC), infrastructure investment in the region averaged 3.5% of GDP in the 1980s, but in subsequent decades declined to an average range of 2–3% of GDP.<sup>1</sup> Moreover, the International Monetary Fund highlights that the level and quality of infrastructure in the LAC region is “*inadequate and is identified as one of the principal barriers to growth and development, despite upgrades to the region's infrastructure network over the past decade.*”<sup>2</sup>

The Infrascope—a tool designed to evaluate the capacity of countries to implement sustainable and efficient public-private partnerships (PPPs) in infrastructure—is intended to help countries achieve that essential improvement. The 2017 Latin American and Caribbean Infrascope measures a country's ability to mobilise private investment in infrastructure through PPPs. This is the fifth edition of the Infrascope for the region, and features a new methodology to reflect the latest industry developments for infrastructure PPPs. As part of this change, new topics have been incorporated such as environmental and social sustainability, fiscal control and budgeting, transparency and accountability, and new financing instruments.

Although past editions of the Infrascope are not comparable to the current one, the results of the Infrascope show that the environment for infrastructure PPPs in the region has been progressing, with countries striving to close the investment gap.

New legislation is being implemented in Argentina, El Salvador and Nicaragua, while other countries with more PPP experience, such as Chile, Brazil and Mexico, have opened up the PPP scheme to new areas beyond traditional infrastructure, to include sports arenas, parks, and educational and prison facilities. Moreover, countries have begun to incorporate new factors into the PPP equation, including climate change and disaster risk management, while other social aspects, such as community consultations and gender goals, are still a work in progress for a majority of LAC countries. Transparency and accountability are also high on the governments' agenda although countries could improve in the use of online tools such as published reports and the existence of dedicated PPP registries. On the issue of financing, the region continues to rely on international financial institutions (IFIs) and multi-lateral lenders to fund infrastructure needs, while other instruments are in need of advancement: opening up markets to local institutional lenders (such as private pension funds), issuing impact development bonds and green bonds, and accessing project development funds.

Governments in the region have plenty of work ahead in terms of meeting their commitments to the UN, which has identified proper infrastructure as one of its Sustainable Development Goals (SDGs), stating that infrastructure investments are crucial to achieving sustainable development and empowering communities.<sup>3</sup> The Infrascope can be a useful guide to help policymakers, investors, law firms, construction firms and other stakeholders bridge this divide.

1 Economic Commission for Latin America and the Caribbean, “The economic infrastructure gap and investment in Latin America”, *FAL Bulletin*, Issue No. 332 – Number 4 / 2014. [[http://repositorio.cepal.org/bitstream/handle/11362/37381/S1500152\\_en.pdf?sequence=7](http://repositorio.cepal.org/bitstream/handle/11362/37381/S1500152_en.pdf?sequence=7)] Accessed April 2017.

2 International Monetary Fund, “Regional Economic Outlook: Western Hemisphere”, 2017. [<https://www.imf.org/external/pubs/ft/reo/2016/whd/eng/pdf/0416/chap5.pdf>] Accessed April 2017.

3 United Nations, “Sustainable Development Goals”. [<http://www.un.org/sustainabledevelopment/>] Accessed April 2017.

# Key findings

## Infrascope 2017 overall score

(neutral weights)

	Rank		Score / 100
	=1	Chile	74
	=1	Colombia	74
	3	Brazil	72
	4	Jamaica	71
	5	Peru	69
	6	Mexico	68
	7	Honduras	65
	=8	El Salvador	64
	=8	Nicaragua	64
	=8	Uruguay	64
	=11	Costa Rica	62
	=11	Guatemala	62
	13	Paraguay	58
	14	Trinidad and Tobago	56
	15	Panama	51
	16	Dominican Republic	49
	17	Argentina	48
	18	Ecuador	44
	19	Venezuela	8
	<b>AVERAGE</b>		<b>59</b>

■ DEVELOPED (60-79)
 ■ EMERGING (30-59)
 ■ NASCENT (0-29)

Score 0-100 where 100=best.  
Rank out of 19 countries across LAC, 1=best, = before the rank indicates a tie.

## Chile, Colombia and Brazil continue to be strong performers across the five categories of the Infrascope

Even under the new methodology, Chile and Colombia continue to lead the region in most of the categories of the Infrascope. Chile has more than 25 years of experience in private-sector participation in infrastructure projects. The country has a strong regulatory and supporting institutional framework for PPPs, which is reinforced by a solid investment and business climate and developed financing instruments. The country has implemented more than 70 PPP projects in the past five years, according to the World Bank PPI Database.<sup>4</sup> However, Chile is facing a series of challenges in PPP development, including the cost of projects which are viewed as expensive and a growing demand for greater transparency at all stages of the process, including better monitoring of ongoing projects in terms of costs, service levels and economic performance.

Colombia's PPP environment is marked by a strong regulatory framework which was bolstered by a new PPP law implemented in 2012. Also, the PPP entities in the country are experienced in developing and maintaining PPP contracts, which serves to attract private-sector participation in infrastructure projects. This is evidenced by the approximately 37 projects awarded to the private sector in the past five years.<sup>5</sup> While the 2012 PPP law is a step in the right direction, further improvements are required to make the PPP process more efficient, including streamlining schemes with sectoral regulations and increasing co-ordination across entities involved in the process.

<sup>4</sup> World Bank, "Private Participation in Infrastructure Database", [<https://ppi.worldbank.org/snapshots/project/electricidad-de-caracas-504>] Accessed January 2017. Note: refers to PPP projects in transport, water and energy sectors, as solid waste is not included in the World Bank PPI Database.

<sup>5</sup> Ibid. Note: refers to PPP projects in transport, water and energy sectors, as solid waste is not included in the World Bank PPI Database.



In Brazil, the total number of PPP projects that reached financial closure in the past five years is around 270, or close to half of all projects undertaken in the region during the same period.<sup>6</sup> In addition to the large size of the Brazilian market, the high number of PPP projects developed in the country is supported by its strong institutional framework as well as the ability to develop PPPs at both the national and sub-national level. This, however, poses its own challenges. There are likely to be growing pains as more PPPs are developed at the local level, where the technical capacity is nascent. Also, while the country's financing instruments are more developed than those of other countries in the region, its capital markets still must be strengthened to ensure funding for future projects.

### Argentina and Jamaica are moving towards a more PPP-friendly environment

Following years of infrastructure underinvestment and a sovereign default in 2001, Argentina has made important progress towards attracting private investors back into the economy, building an environment that is conducive to PPP projects. The government of President Mauricio Macri has embarked on an effort to restore investor confidence and has taken several measures to do so, including the lifting of capital controls and import restrictions that were in place between 2001 and 2015. The country has also returned to the international capital markets, having raised US\$16.5bn in bonds in April 2016. A new PPP law was approved by Congress last November, further cementing the importance given to the private sector in infrastructure projects, and the government has announced a series of infrastructure initiatives, such as the Plan Belgrano, for the coming years. Over all, the government has announced that it is seeking to increase capital spending in infrastructure projects from 2% to 6% of GDP in eight years.

In the past five years Jamaica has been fostering private-sector participation in infrastructure projects and has been working to strengthen its existing PPP legal framework. Since the implementation

of the new PPP Policy in 2012, the country has closed five PPP projects valued at US\$1.3bn, the most recent of which was the Kingston Container Terminal project, which reached financial closure in 2016. However, important issues remain to be tackled, including building institutional capacity and knowledge to execute projects consistently and efficiently, making its public registry of PPP projects available online, and improving its infrastructure financing, such as opening the market to institutional investors.

### New legal frameworks for PPPs are being adopted but still need to be tested

Many countries in the region have made efforts to boost private-sector participation in infrastructure projects, with the implementation of new PPP laws (most recently in October 2016 in Nicaragua, in November 2016 in Argentina, and in December 2016 in Costa Rica), the establishment of PPP-specific units (such as the Department of Public Investments in Nicaragua and the Interinstitutional Committee of Public-Private Partnerships in Ecuador) and increasing transparency of the PPP process by updating PPP registries and publishing contracts, documentation and project evaluations.

However, there is still an important gap between legislation (what is on the books) and the maturity of the sector in terms of PPP projects implemented (what occurs in practice). Countries may score high in "Regulations" and "Institutions" but still lag behind "Maturity". El Salvador, Nicaragua, Guatemala, and Argentina have recently made major changes in their PPP legislation and institutions but will have to put in practice what they have instituted. As such, a major challenge in the coming years will be to test the regulatory and institutional environment for PPPs by building a solid pipeline of projects and ensuring they reach financial closure.

<sup>6</sup> Ibid. Note: refers to PPP projects in transport, water and energy sectors, as solid waste is not included in the World Bank PPI Database.

## Public perceptions and support for the private sector may be affected by recent events across the region

A series of corruption scandals involving some of the region's largest construction companies have tarnished the infrastructure sector. In the case of Brazilian construction and engineering firm Odebrecht, alleged corruption cases have extended to several countries in the region, hindering public perception of private-sector involvement in major infrastructure initiatives. These cases have forced governments to take strong measures including voiding already signed PPP contracts involving Odebrecht, as was the case in Colombia with the US\$850m Magdalena River navigability project in April 2017.<sup>7</sup>

In Chile, the perceived overcharge of some services provided by PPPs (in urban highways and parking lots) has also had a reputational impact on the private sector, at a time when the government is discussing introducing changes to existing PPP legislation.

The upside is that these cases could eventually serve as a catalyst for more transparency and openness in public-private relationships, echoing public demand, while also forcing governments to adopt new legislation to prevent similar cases in the future.

<sup>7</sup> Javiera Gracia, *Business News Americas*, "Colombia ratifies scrapping of US\$850m river dredging contract", April 18th 2017. [<https://www.bnamericas.com/en/news/infrastructure/colombia-ratifies-scrapping-of-us850mn-river-dredging-contract/>] Accessed April 2017.

# Category findings

## 1 Regulations

(neutral weights)

	Rank		Score / 100
	=1	Chile	91
	=1	Colombia	91
	3	El Salvador	90
	4	Mexico	85
	=5	Guatemala	80
	=5	Jamaica	80
	7	Nicaragua	78
	8	Honduras	76
	9	Brazil	73
	=10	Paraguay	71
	=10	Peru	71
	=12	Dominican Republic	68
	=12	Ecuador	68
	14	Uruguay	61
	15	Argentina	60
	16	Costa Rica	53
	17	Trinidad and Tobago	49
	18	Panama	47
	19	Venezuela	13
	<b>Average</b>		<b>69</b>

■ MATURE (80-100)    ■ DEVELOPED (60-79)  
■ EMERGING (30-59)    ■ NASCENT (0-29)

Score 0-100 where 100=best.  
Rank out of 19 countries across LAC, 1=best, = before the rank indicates a tie.

## The region continues to progress towards developing and strengthening its PPP-specific legal framework

In the past five years, a number of LAC countries have passed PPP-specific legislation, including El Salvador (2014), Paraguay (2013), and more recently Nicaragua (2016), Costa Rica (2016) and Argentina (2016–17). In the case of El Salvador, the country has in place strong and modern PPP legislation, but faces challenges such as domestic gang violence and high exposure to natural disasters and climate risks, which can limit its attractiveness as an investment destination. Paraguay's PPP framework, enacted in 2013 and since amended in 2016, does not exclude any sectors for the establishment of PPPs, as the government has a long list of infrastructure sectors that require improvement, for example roads, railroads, ports, airports, waterways, water and sewerage services, and educational and prison facilities, among others. In Nicaragua, the government approved a new PPP legal framework in 2016 and has identified several projects to be carried out under a PPP scheme, focused largely on transport and energy infrastructure, contingent on its ability to secure financing. Costa Rica's new PPP regulations were designed to address some of the concerns raised by the World Bank and OECD—to which Costa Rica is seeking accession—regarding the country's infrastructure shortfalls, particularly its road network. The new PPP framework in Argentina seeks to restore investor confidence and support for financing of infrastructure projects, both of which were hit hard by the sovereign debt default in 2001.

## Communicating with communities affected by infrastructure projects will support the sustainability of the PPP modality in the long run

The 2017 Infrascope includes a new indicator on sustainability, which assesses a country's requirement to conduct environmental impact assessments (EIAs) and public consultations, as well as its alignment of PPP regulations with disaster risk management, climate change, social inclusion and gender equality. The region performs very well in terms of EIAs before implementing PPPs, as all 19 countries require them. However, public consultations with communities affected by infrastructure projects are not always conducted. Six countries (Chile, Dominican Republic, El Salvador, Honduras, Nicaragua and Panama) do not legally require consultations with affected communities, and of those that do, only one (Brazil) publishes them online. One criticism of Brazil's consultation requirement, however, is that it is too broad to effectively identify the needs of the community. Rather it is opened up to the demands of a number of groups, including rent seekers, making it difficult to sort out the legitimate issues of those affected.

## The region is embracing economic principles for project selection

More countries are beginning to require the appropriate economic analyses before proceeding with PPP projects, which improves efficiencies both in terms of developing projects as well as the economic return to users once the projects are completed. Seventeen of the 19 countries surveyed require cost-benefit analysis (CBA); only Panama and Venezuela do not have it properly codified in their PPP legislation. In the case of Panama, while the National System of Public Investment (Sistema Nacional de Inversión Pública, SINIP) was developed to evaluate and oversee public investment decisions, it has not yet been fully implemented. Likewise, options analysis and value for money analysis are also requisites for a majority of countries, with the exception of the Dominican Republic, Panama and Venezuela. Options analysis may be carried out during the tendering of projects in the Dominican Republic, but the relevant legislation neither requires it nor provides the appropriate procedures to conduct it; the concept of value for money is also absent from the country's PPP legislation.

## 2 Institutions

(neutral weights)

	Rank		Score / 100
	1	El Salvador	91
	2	Brazil	88
	3	Guatemala	80
	=4	Colombia	75
	=4	Jamaica	75
	6	Chile	68
	=7	Nicaragua	66
	=7	Peru	66
	=9	Honduras	63
	=9	Uruguay	63
	11	Mexico	61
	12	Paraguay	60
	13	Trinidad and Tobago	48
	14	Argentina	42
	15	Costa Rica	40
	16	Ecuador	31
	17	Dominican Republic	16
	18	Panama	11
	19	Venezuela	0
	<b>Average</b>		<b>55</b>

■ MATURE (80-100) ■ DEVELOPED (60-79)  
 ■ EMERGING (30-59) ■ NASCENT (0-29)

Score 0-100 where 100=best.  
 Rank out of 19 countries across LAC, 1=best, = before the rank indicates a tie.

### National infrastructure plans and PPP units can support the implementation of PPPs

Infrastructure development requires a long-term view, and as such, many countries in the region have engaged in the establishment of national infrastructure plans that go well beyond a government's term in office. These multi-project, multi-modal plans are designed to last beyond the political cycle, seeking to bring together a broad consensus on the needs of each country. The 2017 Infrascope identified 14 countries with national

infrastructure plans. In 2014, the government of Paraguay launched a National Development Plan for 2030, which includes infrastructure, and specifically logistics, as one of its main areas of development for making the country more competitive. However, it does not prioritise PPPs as tools to achieve its goals. As of March 2017 only one project—the expansion and maintenance of federal highways No. 2 and No. 7—had been awarded under a PPP scheme, while a potential second PPP project—for the modernisation of the Silvio Pettrossi airport—has come under scrutiny for irregularities in the tendering process.

Despite the growing prevalence of national infrastructure plans in the region, PPPs are not always prioritised in national planning tools (as noted above in Paraguay). Only six countries (Chile, Colombia, Ecuador, Honduras, Jamaica and Mexico) align the screening and selection of PPP projects with priorities established in national infrastructure plans. For example, Jamaica's national infrastructure plan, "Vision 2030 Jamaica: National Development Plan", explicitly emphasises the role of PPPs in the infrastructure, construction and tourism sectors, as long as they meet selection criteria.

Moreover, since the publication of the last Infrascope report (in 2015) four countries have announced the creation of PPP agencies, though one is not yet operational. In Brazil, following passage of the Investment Partnerships Program in May 2016, the country created the PPI Secretariat (Secretaria Executiva do Programa de Parcerias de Investimentos), which is responsible for PPP policy co-ordination, including technical support and oversight. Ecuador's Interinstitutional Committee of Public-Private Partnerships (Comité Interinstitucional de Asociaciones Público-Privadas), or "PPP Committee", was developed in December 2015; while the unit is responsible for co-ordinating policy and developing PPP guidelines, it remains relatively weak, as it does not yet have a dedicated technical body, even though this is mandated in the relevant legislation. Nicaragua's General Directorate of Public Investments (Dirección General de Inversiones Públicas) was given the remit for the promotion, technical support and supervision of PPP contracts as per the new PPP

law implemented in October 2016. Argentina, which approved a new PPP law in November 2016, established the creation of the PPP Unit (Unidad de Participación Público Privada); once operational, it will be in charge of collecting all contracts governed by the new PPP framework, and will provide consultative, operational and technical support during project formulation, preparation of bidding documents and contract performance.

### Efforts at more transparency and accountability in the development of PPPs are middling

Countries have patchwork systems for making the PPP process more transparent and accountable. Brazil performs the best overall in this indicator, though some gaps remain in its efforts at transparency, partly owing to the national and sub-national nature of PPP development in the country. While project information is found in the country's respective regulatory websites—for example, roads under concessions in the National Land Transportation Agency (ANTT) website—there is no centralised public database of PPPs in the country. Such a database could help to disseminate information (for example, lessons learned and experiences) to PPP participants across various infrastructure sectors, improving the overall efficiency of the PPP development process.

While it is considered best practice to publish a needs assessment at the stages of project identification, selection or procurement (to prove that investment is justified), only one country (Colombia) does so. The region also performs poorly in terms of monitoring and reporting on the performance of PPP contracts, as well as evaluating projects once completed. Only three countries (Brazil, Chile and Jamaica) gather information periodically on project developments (such as delays or changes), and only six countries publish PPP project evaluations once projects are completed. These are important steps for improving the PPP process and should be prioritised as countries' PPP environments mature.

## 3 Maturity

(neutral weights)

	Rank	Score / 100
	=1 Chile	90
	=1 Colombia	90
	3 Jamaica	89
	4 Mexico	85
	=5 Costa Rica	83
	=5 Peru	83
	7 Nicaragua	81
	=8 Honduras	78
	=8 Trinidad and Tobago	78
	10 Panama	76
	11 Brazil	75
	12 Uruguay	72
	13 Paraguay	69
	14 Guatemala	65
	=15 Dominican Republic	64
	=15 El Salvador	64
	17 Argentina	39
	18 Ecuador	22
	19 Venezuela	11
	<b>Average</b>	<b>69</b>

■ MATURE (80-100) ■ DEVELOPED (60-79)  
 ■ EMERGING (30-59) ■ NASCENT (0-29)

Score 0-100 where 100=best.  
 Rank out of 19 countries across LAC, 1=best, = before the rank indicates a tie.

### Top performers in the Infrascope have a long tradition implementing PPPs

Unsurprisingly, Brazil, Colombia, Chile, Mexico and Peru ranked high in terms of PPP project implementation (sub-indicator 3.1.1.), thanks to both volume and years of PPP experience across the infrastructure spectrum. The number of projects that reached financial closure in the past five years across these five countries totalled 457; during the same period, across the remaining countries in the Infrascope, the total number of projects

that reached financial closure in the past five years totalled just 93. Honduras is worth highlighting in this area, based largely on its PPP experience and investment relative to the size of its GDP (sub-indicator 3.1.2). According to data from the World Bank, Honduras' GDP in 2015 was US\$20.4bn, making it the third-smallest country by GDP out of the 19 surveyed<sup>8</sup>, but it has implemented 22 PPP projects valued at some US\$3.1bn since passage of its PPP framework in 2010.

### Stipulations for project exit and contract termination instil investor confidence

Providing investors with a clear understanding of project exit or contract termination procedures within the PPP regulatory framework is an important step for encouraging participation by the private sector; before entering into agreements, investors must understand the ramifications of unforeseen events forcing changes in projects. The LAC region performs quite well in terms of contract termination procedures, as it is the indicator with the third-highest score across all 23 indicators analysed (82 points out of 100 with both neutral and maturity weights). In most cases (Argentina and Venezuela are the exception), the contents of termination procedures are provided for within individual PPP contracts. And all but four countries (Ecuador, Paraguay, Uruguay and Venezuela) allow investors to appeal in case of contract termination by the government. In Uruguay, which requires that any dispute arising in a PPP contract be settled via arbitration tribunal, decisions made by the tribunal are considered final and cannot be appealed by the relevant parties.

## 4 Investment and business climate

(neutral weights)

	Rank		Score / 100
	1	Costa Rica	79
	2	Jamaica	78
	3	Uruguay	72
	4	Honduras	70
	5	Trinidad and Tobago	67
	6	Panama	65
	=7	Chile	61
	=7	Ecuador	61
	9	Brazil	58
	=10	Colombia	57
	=10	Mexico	57
	=12	Paraguay	56
	=12	Peru	56
	14	Argentina	55
	15	Guatemala	53
	16	Dominican Republic	51
	17	Nicaragua	48
	18	El Salvador	38
	19	Venezuela	9
	<b>Average</b>		<b>57</b>

■ MATURE (80-100) ■ DEVELOPED (60-79)  
 ■ EMERGING (30-59) ■ NASCENT (0-29)

Score 0-100 where 100=best.  
 Rank out of 19 countries across LAC, 1=best = before the rank indicates a tie.

### Political support for PPPs is strong across the region

The level of political consensus, or will, to engage private parties in PPPs and to provide favourable implementation frameworks is also key in advancing PPP projects. Eighteen of the 19 countries surveyed in the 2017 Infrascope scored highly in PPP support from high-level politicians; the exception was Guatemala, where political support is not well documented. Despite this positive trend, the

<sup>8</sup> World Bank, "Data: Honduras". [<http://data.worldbank.org/country/honduras>] Accessed April 2017.

region shows a mixed picture when it comes to support across the political spectrum (with nine countries reporting support for PPPs across the political divide) and from the public itself (with 15 countries experiencing at least some sort of public opposition to PPPs). In Colombia, support for PPPs comes from across the political spectrum at both the national and sub-national level, including from President Juan Manuel Santos as well as the mayors of Bogotá, Medellín and Cartagena. And in Mexico, while the PPP framework was approved by former President Felipe Calderon's administration (from the PAN party), the new administration led by President Enrique Peña Nieto (from the PRI party) has sought to implement and strengthen the new law and regulatory framework. In Panama, however, opposition to greater private-sector participation in infrastructure—and the fear that this would reduce job security for public-sector workers—led to the demise of a PPP bill introduced in 2011.

### Industry concentration is present even in highly developed PPP markets

The 2017 Infrascope results indicate high levels of industry concentration, including in countries with a history of PPP projects, such as Peru, Mexico, Colombia and Chile. In the case of Colombia, three firms—Mexico's América Móvil and Spain's Telefónica and Endesa—account for almost 80% of the projects awarded, according to the World Bank PPI Database. Likewise, in Mexico, five firms took 80% of projects awarded since 1990, valued at more than US\$82bn. The lack of industry competition could pose a risk for countries that have started to consider PPPs for infrastructure development, by limiting the range of options and making the bidding process less competitive. However, some markets are not big enough to attract sufficient competition from foreign companies, while in other cases, the current political environment drives away foreign investment regardless of the size of the economy, as occurs in Venezuela.

## 5 Financing

(neutral weights)

	Rank		Score / 100
	1	Peru	70
	2	Brazil	65
	3	Chile	62
	4	Colombia	59
	=5	Costa Rica	54
	=5	Panama	54
	=5	Uruguay	54
	8	Mexico	49
	9	Dominican Republic	46
	10	Nicaragua	44
	11	Argentina	42
	=12	Ecuador	39
	=12	Honduras	39
	=14	El Salvador	37
	=14	Trinidad and Tobago	37
	16	Paraguay	35
	17	Jamaica	32
	18	Guatemala	31
	19	Venezuela	6
	<b>Average</b>		<b>45</b>

■ MATURE (80-100) ■ DEVELOPED (60-79)  
 ■ EMERGING (30-59) ■ NASCENT (0-29)

Score 0-100 where 100=best.  
 Rank out of 19 countries across LAC, 1=best, = before the rank indicates a tie.

### Top performers in the Infrascope have deep local capital markets

Financial facilities to support PPPs still remain a challenge in the region, with this category having the lowest score in the Infrascope overall out of the five categories analysed (45 points out of 100 neutral weighted and 46 points out of 100 maturity weighted). Brazil, Chile and Peru lead the development of financial facilities for PPPs in the 2017 Infrascope, given their strong, deep and liquid capital markets, including freely traded local-cur-



rency bonds from public and private issuers and low sovereign risk. Their performance in this category benefits from having relatively low proportions of financing through conditional loans from IFIs, multilateral and bilateral organisations, and donor grants in the past five years; in Brazil, 0.1% of financing is issued through these types of loans, in Chile 9.9%, and in Peru 18.9%.

Argentina also performs quite well in this category, after returning to international markets in April 2016. Its marketable debt is relatively low risk—though not surprisingly, sovereign risk remains high—and only 6.4% of financing for projects has come through conditional loans from IFIs, multilateral and bilateral organisations and donor grants in the past five years.

Aside from Panama and Costa Rica, the availability of financial facilities to support PPPs in the other Central American countries included in this study is limited. Bond markets in marketable debt are small in Guatemala, Honduras and Nicaragua, while financing through conditional loans remains high, particularly in Guatemala—100% of financing for PPPs in Guatemala has come from these types of loans.

## New forms of financing need development

Since a large majority of countries still rely on multilateral institutions to fund infrastructure PPPs, there is a need for them to adapt existing legislation to allow institutional investors to enter the arena. Chile is a prime example of this, as the existing private pension funds have more than US\$180bn in assets under management, but they are currently not allowed to directly finance infrastructure projects. Meanwhile, in other countries, such as Uruguay, where pension funds are interested in funding such projects, conditions established in the proposed PPP projects, as well as the country's small PPP market size, have not made them attractive enough for funds to get involved.

The potential of green bonds and development impact bonds is still to be developed in LAC countries. Eight countries have issued green bonds (Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, Panama and Peru), though none have yet funded infrastructure with development impact bonds.

The deepening of local capital markets could help ease the region's dependence on multilateral lenders for infrastructure funding. Likewise, changes to rules on some institutional investors, such as private pension funds, could also help expand the pool of funding tools available.

# Infrascope country summaries

The following section provides a brief profile of the PPP environment for each of the 19 countries in this study and their performance in the index. Countries are listed in alphabetical order. Please note that the information selected for the country profiles is intended to provide a high-level overview; it is not intended to provide an outline of the legal environment or represent a comprehensive account of all recent activity. For the 19 full, individual country profiles and indicator scores, please refer to the underlying index and "country profile" tab, available at: [infrascope.eiu.com](http://infrascope.eiu.com)



# Argentina

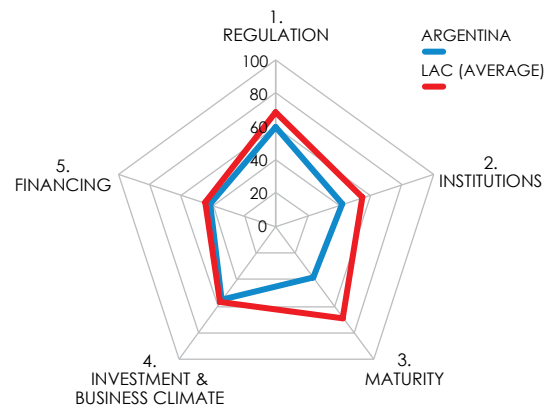


## Brief overview of the infrastructure sector and PPPs

Argentina remains heavily underinvested in infrastructure. During 2008–13, the country invested (mainly through public funding) approximately 2% of GDP in infrastructure, one of the lowest percentages in the region. According to some studies, the country's infrastructure needs amount to another 4% of GDP, mainly in transport infrastructure and energy. The sovereign debt default in December 2001 and the introduction of currency controls and import restrictions instituted during 2001–15, as well as tariff controls in transport and energy concessions, led to reduced service levels and energy bottlenecks. The re-nationalisation of the country's major oil company, YPF, and the expropriation of the majority stake held by Spain's Repsol in 2012 resulted in further deterioration of investor confidence. The resulting compensation settlement was followed by ongoing efforts to resolve the remaining issues before the International Centre for Settlement of Investment Disputes (ICSID). However, in April 2016, the new government issued bonds in the international capital markets for the first time in 15 years, totalling US\$16.5bn. In opening up to these markets and presenting the new law on PPP contracts, the government aims to boost investment in infrastructure through PPPs. Moreover, the National Plan for Transport and Infrastructure comprises US\$33.3bn in public and private investments for the period 2016–19.

## Brief overview of the enabling environment for PPPs

The lack of investor confidence in the country following the sovereign debt default in December 2001 resulted in a lack of PPP projects since 2001. The country had several regulations governing PPPs, but recently amended them in an attempt to attract investment. The decree establishing the Framework for the Promotion of Private Participation in Infrastructure Development (Régimen para la Promoción de la Participación privada en el Desarrollo de Infraestructura, Decreto No. 1299/2000) provided rules under the Public Works Law (Ley de Obras Públicas, Ley No. 13064/1947). The decree for the Framework for Public-Private Partnerships (Régimen Nacional de Asociación Público-Privada, Decreto No. 967/2005) represented a further attempt at regulation under both the Public Works Law and the Concession of Public Works law (Ley de Otorgamiento de Concesiones de Obras Públicas, Ley No. 17520/1967). In November 2016, Argentina passed a dedicated Public-Private Partnership contracts law (Contratos de Participación Público-Privada, Ley No. 27328/2016), as an alternative to the



previous framework, made up of national decrees which had been instituted since the late 1980s and early 1990s. The introduction of the new law serves as recognition of the need for private financing to make up for decades of underinvestment in the country's infrastructure. It follows the resolution of the sovereign bond default in 2016 and several market-friendly measures introduced by the new administration and provides an alternative mechanism for PPPs. The law, written as a general piece of legislation to allow its passage, was further enhanced by regulations published in February 2017.

## Main challenges in terms of PPP (infrastructure) development

The main challenge for the country lies in restoring investor confidence in order to raise the required financing—both at the federal and provincial levels—after years of underinvestment. Previous studies estimated that US\$290bn will be needed by 2024 to finance projects in oil and gas exploration, electricity generation, and highway and rail construction. To promote investment, the government intends to launch an ambitious infrastructure program, increasing capital spending from 2% to 6% of GDP in about eight years, with two-thirds coming from partnerships with the private sector. Moreover, in its first Article IV consultation in ten years, the IMF noted that filling the infrastructure gap in the country will take time and will require an improvement in the institutional and legal frameworks for private-sector participation in infrastructure projects, “including by introducing a well-functioning, transparent and competitive system of concessions”.

## Brazil

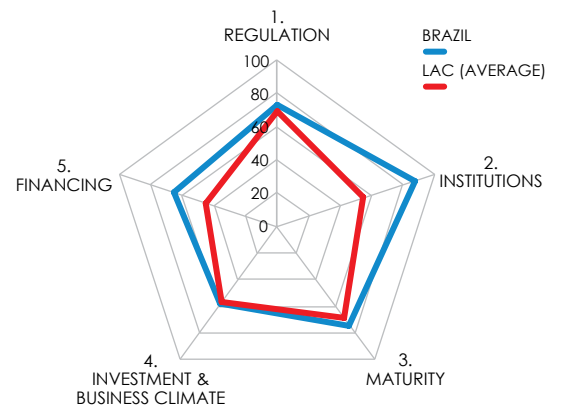


### Brief overview of the infrastructure sector and PPPs

In general Brazil has struggled to bridge its infrastructure gap. In 2014, investment in energy, telecom, sanitation and transport totalled US\$42bn, which represents less than 2.3% of the country's GDP. Facing the challenge to increase investment, and more so now given the recent economic crisis, the country has relied heavily on PPPs. According to the World Bank's PPI Database, 774 projects have reached financial closure in the past two decades, which represents around 20% of all projects in the developing world. In the first half of 2016, Brazil reached financial closure on 27 out of 108 contracts. Two relevant trends identified in 2016 will mark further development of PPPs in the country. The first is the diversification of the type of assets and services delivered by the PPP mechanisms, including healthcare, education, prisons, street lighting, and management of environmental and several other social infrastructure projects. The second is the leading role of subnational governments in infrastructure development outside the energy sector. Despite the central government managing larger projects associated with economic infrastructure, most of the projects prepared in 2016 were led by local authorities, which will produce a large pipeline of subnational (non-energy sector) projects in the coming years.

### Brief overview of the enabling environment for PPPs

The regulatory environment for PPPs in Brazil is detailed and has been steadily evolving since the early concession framework in the mid-1990s. Besides sector-specific regulations, there are two main laws. The first is Law 8987 of 1995, on the Concessions Regime and the Provision of Public Services in Art. 175 of the Federal Constitution, (Lei No. 8987, Dispõe Sobre o Regime de Concessão e Permissão da Prestação de Serviços Públicos Previsto no Art. 175 da Constituição Federal, e dá Outras Providências). The second is Law 11079 of 2004, Establishing General Rules for Bidding and Contracting of Public-Private Partnerships under Public Administration (Lei No. 11079, Institui Normas Gerais para Licitação e contratação de Parceria público-privada no Ambito da Administração pública), which enables all levels of government to implement PPPs across all infrastructure sectors and defines the most relevant rules for a stable PPP environment. Dispute resolution, transparency in procurement processes and protection for investors against unilateral contract changes are all dealt with at length, leaving little room for discretion in the implementation of the framework. In institutional terms, the country went through two significant changes in 2016. The first was the creation of a central department for PPPs within the presidential office (the PPI secretariat), which is responsible for several functions associated with central



PPP units, such as the promotion of PPPs, support for procuring authorities and capacity building. The second was the beginning of formal withdrawal (or reduction) of the role of the publicly owned Brazilian Development Bank (BNDES, O Banco Nacional de Desenvolvimento Econômico e Social) as the main lender for PPP capital requirements. This repositioning of BNDES should help to diversify capital markets, and create more space for commercial banks to provide long-term financing for Brazil's infrastructure.

### Main challenges in terms of PPP (infrastructure) development

The future of PPPs in infrastructure will depend on the country's ability to address structural problems. The first challenge is the need to further develop capital markets and increase participation of commercial banks and institutional investors, both domestic and foreign, occupying the space left by the withdrawal of BNDES as the primary financier for PPPs. This will require further regulatory and institutional reforms as well as the adoption of modern practices in terms of risk allocation in contracts that meet international standards. The second challenge is associated with the development of technical capacity required to appraise and structure PPPs at the local level. Increased leadership by subnational governments associated with the diversification of PPP contracts has highlighted the complexities of the PPP project cycle, particularly in new sectors, for which most local governments are not yet prepared. Furthermore, transparency and accountability standards for PPPs must be further developed in order to shield the mechanism against the kind of corruption cases that affected the infrastructure market in 2016. Otherwise the procurement process will become less competitive and value for money will be challenging to achieve.

# Chile

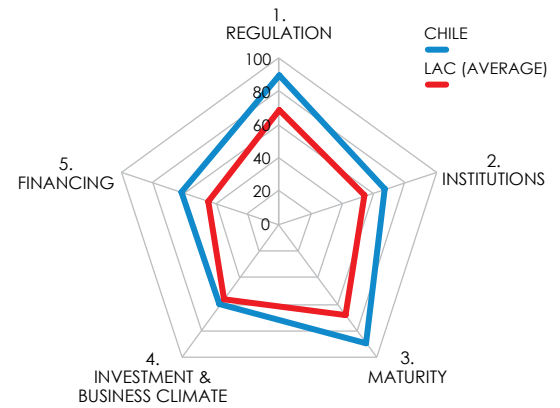


## Brief overview of the infrastructure sector and PPPs

Chile has a long history of PPPs in the region, and has awarded a total of 197 projects worth approximately US\$69.4bn during the period 1990–2016. According to the World Bank PPI Database, the number of projects, by sector, that reached financial closure during the same period included: 16 airports; 87 electricity projects; ten information and communication technology projects; eight natural gas projects; 12 ports; four rail projects; 35 roads; and 26 water and sanitation projects. There is a high level of concentration, with a few firms winning a major share of PPP contracts. Three firms account for almost 80% of all projects, including Almendral SA from Chile, with investments of US\$2.8bn across 81 projects, Telefonica SA from Spain, with investments of US\$10.8bn across 75 projects, and SUEZ from France, with investments of US\$7.9bn across 71 projects. According to Infralatom, the infrastructure database prepared by CAF, CEPAL and IDB, in 2013, Chile's total infrastructure investment was US\$12.6bn (4.5% of GDP) in 2013, up from US\$7.7bn (2.9% of GDP) in the previous year. During 2013, private investments represented 64% of the total, with public investment at 36%. Investment in the energy sector reached US\$6.2bn, almost five times the 2012 level. In 2013, infrastructure investment amounted to US\$605m in water and irrigation; US\$4.5bn in transport; and US\$1.3bn in telecom.

## Brief overview of the enabling environment for PPPs

Chile's current PPP regulatory framework was established in Law No. 20410 of 20 January 2010, the Law of Public Works Concessions (Ley de Concesiones de Obras Públicas, Ley No. 20410). This law made significant improvements to previous legislation, including greater transparency and incorporating more objective criteria (around renegotiation and unintended transfer of commercial risk) to compensate private actors in the case of acts of government. Over all, the regulation has created a more level playing field for private-sector participation. Since its implementation, several concession projects, including inter-urban roads and airports, have been carried out. To date, the law has passed the market test, and there is significant private-sector interest in participating in PPPs. Agencies involved in PPP development include the Coordination of Public Works Concessions, an inde-



pendent Concessions Council and the Ministry of Finance. The Coordination of Public Works Concessions, part of the Ministry of Public Works, is the agency in charge of PPP projects. The Concessions Council must be consulted on matters of PPPs by the Ministry of Public Works, as stipulated in Article 1 of Law No. 20410. The ministry also plays an active role in the evaluation of a project's potential fiscal impact, publishing information on long-term commitments resulting from the contractual management of public works in public budget documents. It also periodically evaluates contingent liabilities. The government has sent a bill to Congress to establish an Infrastructure Fund that would be in charge of retendering existing PPPs once contracts expire, and using these assets to finance new PPPs in infrastructure.

## Main challenges in terms of PPP (infrastructure) development

Although Chile is one of the most active countries in the region in terms of PPPs, it is now facing a turning point in terms of their development. First, the cost of projects, such as public tolls for highways, are seen as expensive, as many of the more obvious projects have already been concessioned. Second, as the government continues to push its probity and transparency agenda, there is growing demand for greater transparency at all stages of the PPP process, including better monitoring of on-going projects in terms of project costs, service levels and economic performance.

# Colombia

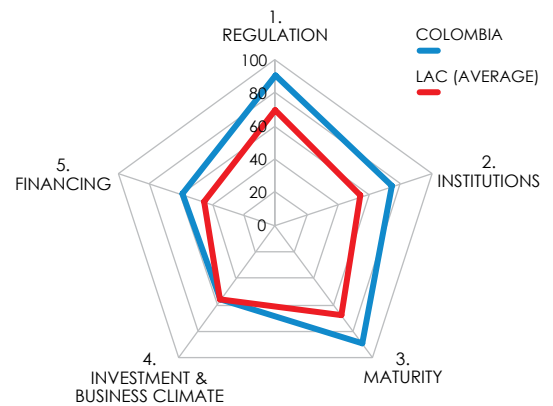


## Brief overview of the infrastructure sector and PPPs

Colombia has awarded a total of 180 PPP infrastructure projects, worth approximately US\$62.6bn, during the period 1990–2016. According to the World Bank PPI Database, the projects that reached financial closure during this period included: nine airport projects worth US\$1.5bn; 29 electricity projects totalling US\$12.9bn; nine information and communication technology projects amounting to US\$18.8bn; 11 natural gas projects worth US\$1.1bn; 13 port projects totalling US\$2.5bn; two rail projects worth US\$500m; 55 road projects amounting to US\$24.2bn; and 52 water and sanitation projects worth US\$1.1bn. According to Infralatam, the infrastructure database prepared by CAF, CEPAL and IDB, Colombia's total infrastructure investment was US\$12.9bn (3.4% of GDP) in 2013, up from US\$10.3bn (2.8% of GDP) in the previous year. Public investment represented 66% of the total and private investment totalled 34%. Investment in the energy sector reached US\$3.2bn, two and a half times the 2012 level. In 2013, infrastructure investment for the water and irrigation sector totalled US\$1.6bn, while US\$5.5bn was spent in the transport sector and US\$2.5bn in telecom.

## Brief overview of the enabling environment for PPPs

In January 2012, Colombia approved Law No. 1508, "which establishes the legal regime of Public Private Partnerships and enacts organic budget laws and other provisions". This aims to promote public-private infrastructure projects and applies to any government entity at the national or sub-national level. Later regulations were compiled in Law No. 1082 of 2015, "which adopts a unique law for the administrative national planning sector". These laws specify, among other issues, that Act No. 80, the General Public Acquisitions Act, applies to PPP contracts. Law No. 1682 of 2013, "the Infrastructure Law", is intended to provide mechanisms to solve the key bottlenecks that infrastructure projects in Colombia have encountered in the past, by providing greater requirements for project planning and structuring, guidelines for co-ordination between national and subnational entities, conflict resolution mechanisms, elimination of obstacles in terms of property ownership, environmental licences, mining licenses, and stronger institutional and financial support of the transport sector. Also, the Support Program for Private Participation in Infrastructure (Programa de Apoyo a la Participación Privada, PAPP) of the National Planning Department provides support and advice to territorial and national-level entities, as well as information to private investors interested in implementing PPP projects. Moreover, Law No. 1508 states that the National Planning Department is charged with validating the justification for using the PPP mechanism. The National Infrastructure Agency (Agencia Nacional de Infraestructura, ANI) and the Virgilio Barco Vargas National Real Estate Agency oversee the execution and management of corresponding PPP projects. ANI, a state agency attached



to the Ministry of Transport, is tasked with planning, co-ordinating, structuring, executing, administering and evaluating concession projects and any other forms of PPPs for transport infrastructure projects. The Virgilio Barco Vargas National Real Estate Agency is responsible for the development, structuring, execution and operation of urban infrastructure projects. Other national public financial entities that support PPP projects include the Financiera de Desarrollo Nacional (FDN), Fondo Financiero de Proyectos de Desarrollo (FONADE) and Financiera del Desarrollo Territorial (Findeter).

## Main challenges in terms of PPP (infrastructure) development

Past challenges for PPPs, such as the high incidence of contract renegotiation<sup>9</sup>, have been dealt with in the PPP Law. Currently the main challenges are: achieving financial closure and execution of 4G projects, developing social projects under the PPP scheme, providing adequate incentives to attract new investors for all sectors, and supporting and enhancing sub-national level capacities to develop projects under the new law. Further improvements are necessary to align the complex sectorial regulation with PPP schemes; increase technical capacity at the sub-national level; increase co-ordination, prioritisation and evaluation of projects; and enhance municipal entities' knowledge of the requirements and procedures to develop PPP projects. An additional challenge for Colombia, as well as for other LAC countries, is corruption, which creates additional obstacles for the financial closure of PPP projects (4G) due to increasing reputational risk for financiers. This suggests the need for adjustments in the regulatory framework related to the issue of contract nullification.

<sup>9</sup> Information from the Colombian National Planning Department suggests that average cost for renegotiation was equivalent to 280% of the initial cost of a contract. From 1993 to 2010, the average number of renegotiations per concession was almost ten times that of Chile, as well as five times more expensive and taking six times as long to finalise. Out of 25 concessions contracts that were analysed in Colombia, a total of 430 changes were made, amounting to a total cost of US\$5.6bn and an additional 131 years.

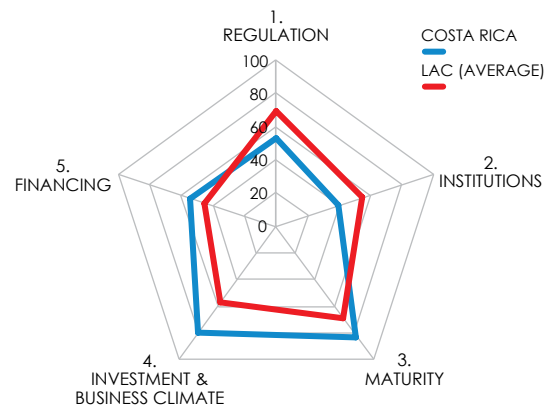


### Brief overview of the infrastructure sector and PPPs

A lack of political will and public opposition to concessions in Costa Rica has hampered legislative and regulatory developments that may help improve the country's infrastructure. This has resulted in low public spending on transport infrastructure, running an average of 0.8% of GDP below the OECD average between 2002 and 2013. The road networks and seaports have therefore deteriorated over the years, while the rail network, which was shut down in the 1990s, has only recently been reactivated. The National Transport Plan 2011–35, developed by the Ministry of Public Works, aims to address the shortfall, calling for annual infrastructure spending to rise to 3.99% of GDP until 2035 with two-thirds to be financed by the private sector. According to data from Infralatam, the CAF, Cepal and IDB database, Costa Rica's total infrastructure investment was US\$2.5bn (4.2% of GDP) in 2013. Public investments represented 75% of the total and private investment accounted for 25%. \$1.2bn was spent in the energy sector, \$70m on water and irrigation infrastructure, US\$495m on the transport sector and US\$314m in telecom.

### Brief overview of the enabling environment for PPPs

The main concession law is the Public Works Concession Act of 1998 (Ley General de Concesión de Obras Públicas con Servicios Públicos, Ley No. 7762/1998), which was modified in June 2008 to streamline the concession process (Modificación parcial de la Ley General de Concesión de Obras Públicas con Servicios Públicos, Ley No. 8643). Laws 7762 and 8643 and their associated regulations (Reglamento de los Proyectos de Iniciativa Privada de Concesión de Obra Pública o de Concesión de Obra Pública con Servicio Público, Decreto No. 31836) laid out the concession framework and created the Concessions Council (CNC), which is responsible for concession development and management. In the years since the Public Works Concessions Act was approved, only four projects have materialised. This reflects the fragmented and complex institutional setting—consisting of more than 40 public entities—which has impeded a uniform, long-term vision and strategic planning to establish clear project pipelines. In December 2016 the government issued Decree No. 39965, Regulations for Contracts in Public-Private Partnerships (Reglamento para los Contratos de Colaboración Público Privada, Decreto No. 39965/2016), to enable PPP projects for the first time by linking new regulations to existing legislation. The country is seeking to accede to the OECD, and publication of the regulations serves as an acknowledgment that it aims to improve its PPP laws and



regulations. It is hoped that a clearer framework resulting from the new regulations will help to attract the private investment necessary for growth and improvement in infrastructure. The new regulations were established under Articles 3 and 55 of the Administrative Contracting Law (Ley de Contratación Administrativa, Ley No. 7494/1995), which allows for regulations to define alternative types of contracts, under Articles 50 and 140 of the Constitution, Articles 6 and 27 of the General Law of Public Administration (Ley General de la Administración Pública, Ley No. 6227/1978), and Article 146 of the Decree on Regulations to the Law of Administrative Contracting (Reglamento a la Ley de Contratación Administrativa, Decreto No. 3341/2006).

### Main challenges in terms of PPP (infrastructure) development

Streamlining the institutional and legal framework of public works agencies would appear to be one of the key challenges for the country. For example, while the CNC may have been developed as a PPP unit, it has not adequately acted as such due to high levels of institutional fragmentation. Nonetheless, the government has created a PPP unit within the Ministry of Finance to work on methodological guides for PPP identification, preparation and implementation in co-ordination with the Ministry of Planning. While this is a positive development and should continue to improve, there is also the challenge of building public confidence and trust in a system that encourages the participation of the private sector to a much greater extent for the overall benefit of the country. This is crucial to strengthening stakeholder involvement, improving the expertise of public officials and producing a clear project pipeline for investors.

# Dominican Republic



## Brief overview of the infrastructure sector and PPPs

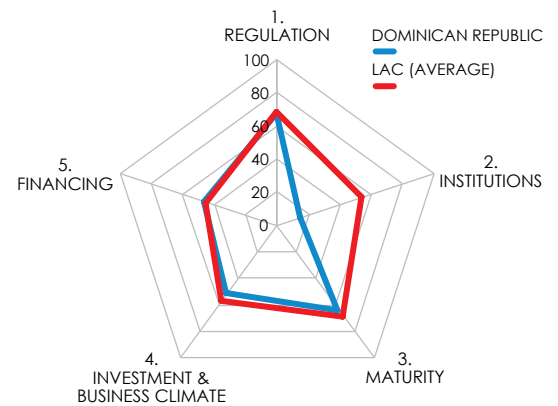
For the past five years in the Dominican Republic, private participation in infrastructure has primarily focused on electricity, ports and telecom. A total of US\$1.9bn has been invested, of which 52% has gone towards electricity projects; 42% towards telecom and 6% towards ports. Foreign direct investment in infrastructure reached US\$8.85bn between 2004 and 2013, in the telecom, electricity, real estate, transportation and commercial sectors.

## Brief overview of the enabling environment for PPPs

The Dominican Republic is in the process of developing a new PPP legal framework, and the Presidency Ministry (Ministerio de la Presidencia, Ministry in charge of matters of Presidential interest) is likely to replace the Concessions Law currently in force—the Law of Purchases and Contracts of Goods, Services, Works and Concessions (Ley de Contratación Pública de Bienes, Obras, Servicios y Concesiones), contained in Law No. 340-06 of 2006—with a new PPP law, a draft of which is currently under review. Telecom is a well-developed sector that has a very detailed Concessions Regulation (Reglamento de Concesiones, Inscripciones en Registros Especiales y Licencias para Prestar Servicios de Telecomunicaciones en la República Dominicana), which describes the rules and procedures necessary for private-sector actors to obtain and execute concessions. The regulation also outlines the procedures the government must comply with to issue authorisations and concessions, including the legal, economic and technical requirements to be met by those interested in providing or operating telecom services.

There are also provisions for the port sector. The Sea Port Concessions Regulation contained in Decree 309-98 of August 18th 1998 sets the polices for the construction, use, exploitation, operation, administration and rendering of services in ports, terminals and port facilities; procedures for granting concessions; content of concessions; construction of works; provision of services; and arbitration as a means for settling disputes.

The country is in the process of converting fossil fuel-dependent plants to coal and natural gas; construction on two new power plants was approved and



began in 2014. There are also efforts to expand and improve the country's road and hydraulic network, modernise the electricity distribution system, and expand and improve broadband networks. The Dominican Liberation Party has established in its Government Program for 2016–2020 the continuation of the road improvement program, incorporating new mechanisms of private-public collaboration.

## Main challenges in terms of PPP (infrastructure) development

The most important challenge in terms of PPP development is completing the draft of a special PPP law, so it can then be submitted to the legislative branch for its approval. This is intended to replace the existing Concessions Law, which presents many challenges in terms of transparency, competition in tenders, risk assessment, and dispute resolution mechanisms, among other issues. The dynamics of the country's economy, its low inflation rate and its progress in terms of the tourism, energy and telecom sectors, in addition to other productive trends, make it particularly well suited for PPP projects, rendering it necessary to modernise the legal and institutional framework to regulate the PPP environment. The president of the Dominican Revolutionary Party has also highlighted the importance of reform that guarantees and facilitates partnerships between private businesses and the public and private sectors for infrastructure development.



## Ecuador

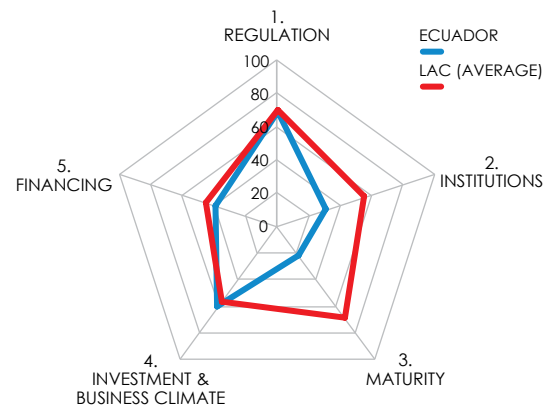


### Brief overview of the infrastructure sector and PPPs

The State Modernisation Act of 1993—which encouraged private-sector participation in infrastructure investment through concessions—was rolled back after the 2008 Constitution gave the government of Ecuador control of strategic sectors, including energy, transport and water, and declared that only by exception can the development of these sectors be delegated to private entities. Private investment was crowded out as public investment, supported by oil revenues, increased from about 4% of GDP in the mid-2000s to about 15% in recent years. The average GDP growth rate from 2006 to 2014 was about 4.4%, but the sharp decline in international oil prices and the appreciating dollar curtailed public spending and growth decelerated to 0.2% in 2015 and -1.5% in 2016. Following the regulatory changes from the 2008 Constitution, the government renegotiated several projects, including oilfield concessions and the Quito international airport, and no new PPP concessions were awarded until 2013. Since 2015, the government has been working to improve the investment climate, including establishing a new PPP framework. To date, under this new framework, the Ministry of Transport and Public Works has been the most active in developing and awarding projects: a US\$750m port project and a US\$877m road project. It is also developing three road projects, one port project and seven road maintenance projects. Private-sector investment has also improved in the energy sector, particularly with renewable projects (ie, small hydroelectric projects) reaching investments of more than US\$500m.

### Brief overview of the enabling environment for PPPs

The new PPP framework gradually came into force over the past few years with the issuance of: (i) the Regulation for the Public-Private Collaboration enacted by Executive Decree No. 582 (Reglamento del Régimen de Colaboración Público Privada) in March 2015, which regulates unsolicited proposals; (ii) the Organic Law for PPP and Foreign Investment Incentives—PPP Law (Ley Orgánica de Incentivos para APP y la Inversión Extranjera) in December 2015; and (iii) the Rules and Regulations of the PPP Law (Reglamento General de Aplicación de la Ley Orgánica de Incentivos para APP y la Inversión Extranjera) in June 2016. In



this context, the framework demonstrates the political will to foster private-sector participation in infrastructure investment by setting legal and institutional grounds for PPP development. It has created an institutional structure for PPPs by establishing the Inter-Institutional Committee in charge of the co-ordination and articulation of policies and regulations and provides general guidance on the project approval process by adopting principles such as fiscal sustainability, adequate risk allocation and value for money.

### Main challenges in terms of PPP (infrastructure) development

In this context, Ecuador still faces significant regulatory, fiscal and institutional challenges to implement a sound framework that effectively enables bankable PPP projects. Despite the progress achieved in the normative arena, the PPP framework still requires strengthening as it does not include a PPP unit with proven technical capacity to support the relevant public parties during the PPP cycle and develop more specific manuals and methodologies to guide the evaluation process (ie, eligibility criteria, value for money methodology), among other challenges. Furthermore, clear co-ordination among the various sectoral regimes and the new PPP framework is also necessary, to provide a better foundation for development.

# El Salvador

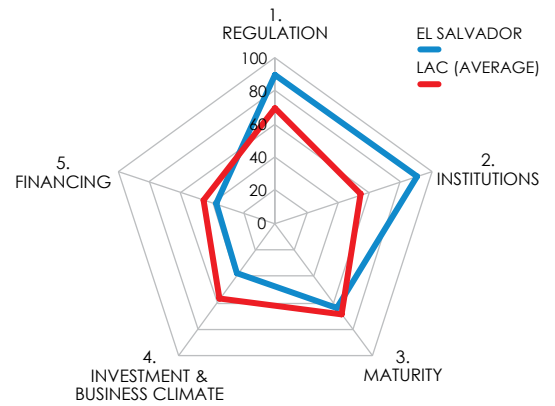


### Brief overview of the infrastructure sector and PPPs

In 2016, El Salvador's total public investment in infrastructure reached US\$713m. This included roads (such as the construction of Acajutla-Sonsonate and Chalchuapa-Jerez bi-national roads and the multilevel steps in San Salvador, and the maintenance of 6,384km of roads) and the modernisation of the Monseñor Óscar Arnulfo Romero International Airport and its logistics corridor (the comprehensive network of services and infrastructure that enables movement of goods). During the current administration, 479 infrastructure projects for roads, housing and transportation have been carried out.

### Brief overview of the enabling environment for PPPs

El Salvador has a solid and modern legal framework for the development of PPP projects, starting with specific constitutional provisions that allow for and promote the participation of the private sector in the development of infrastructure and the provision of services by the state. The Special Law on Private Public Associations (Ley Especial de Asocios Público Privados)—last amended in 2014—and its regulations contain a set of rules that describe in detail the technical, social, environmental, fiscal, economic, legal and regulatory aspects of PPP projects. Institutionally, El Salvador has created two key players for PPPs: a technical oversight body for PPP projects called the Audit Office for Public Private Partnerships (Oficina Fiscalizadora de Asocios Público-Privados, OFAPP) and the Export and Investment Promotion Agency of El Salvador (Organismo Promotor de Exportaciones e Inversiones de El Salvador, PROESA), a government agency specialising in PPPs whose board of directors is made up of key ministries for project implementation, as well as representatives from the private sector.



### Main challenges in terms of PPP (infrastructure) development

Ensuring that the PPP projects prepared under the new legal and institutional framework are completed is one of the immediate issues facing the government. Violence hampers economic and social development and represents a major challenge to improving infrastructure and services through PPP schemes; it is also a disincentive for investment. El Salvador is also exposed to extreme natural disasters and climate issues that have severely damaged infrastructure. These risks must be specifically addressed when administering PPP projects and can affect overall risk coverage costs.

# Guatemala

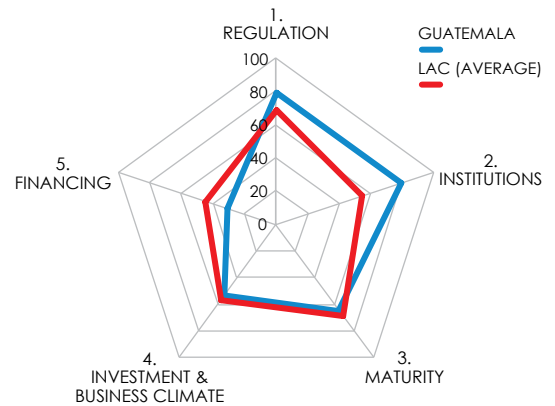


## Brief overview of the infrastructure sector and PPPs

Guatemala supports infrastructure development via PPP projects financed through private investment and international funds. Following the end of the civil war, Guatemala sought new forms of financing through multilateral development banks and the Social Entrepreneurship Program (Programa de Empresariado Social). The National Agency for Alliances for the Development of Economic Infrastructure (Agencia Nacional de Alianzas para el Desarrollo de Infraestructura Económica, ANADIE) currently has a portfolio of six PPP projects in varying stages of development. These include a revitalisation programme for Port Tecun, the construction of a new State Administrative Center, the revitalisation of La Aurora International Airport, an express highway construction project, a road rehabilitation project and the construction of a new railway system in Guatemala City. According to data from CAF, Cepal and IDB, Guatemala's total infrastructure investment was US\$1bn (1.88% of GDP) in 2013. Public and private funding were roughly evenly divided, at 53% and 47%, respectively. Investment in the energy sector stood at US\$17m, water and irrigation at US\$33m, transport at US\$483m and telecom at US\$483m.

## Brief overview of the enabling environment for PPPs

The PPP legal framework in Guatemala is codified in the Law of Alliances for the Development of Economic Infrastructure (Ley de Alianzas para el Desarrollo de Infraestructura Económica), enacted in 2010, and the Regulations of the Law of Alliances for the Development of Economic Infrastructure (Reglamento de la Ley de Alianzas para el Desarrollo de Infraestructura Económica), enacted in 2011. These laws outline the legal framework for the creation, construction, development, utilisation, maintenance, modernisation and expansion of infrastructure, highways, airports, ports, airports, generation projects, electrical and railway conduction, and commercialisation, including the provision of equipment and associated complementary services. The Law of Alliances for the Development of Economic Infrastructure also calls for the creation of the National Agency of Alliances for the Development of Economic Infrastructure (ANADIE), a specialised state institution responsible for the promo-



tion, technical support, tendering, contracting and supervision of PPP contracts. ANADIE is currently preparing several PPP projects and one pre-bidding project with several prequalified participants. Another PPP-supportive entity is the National Competitiveness Program of Guatemala (Programa Nacional de Competitividad de Guatemala, PRONACOM), attached to the Vice Ministry of Investment and Competition of the Ministry of Economy and financed with support from the IDB's Program for Support to Strategic Investments and Productive Transformation.

## Main challenges in terms of PPP (infrastructure) development

A primary challenge in terms of developing PPPs is implementing and managing the PPP process, which is complex and lacks transparency. Managing cultural and community concerns is also an issue, in light of the high concentration of archaeological sites and Mayan communities, both of which require a higher level of conceptualisation and planning to ensure they are not adversely affected by development. Both the framework for PPPs and feasibility studies must take these concerns into account, requiring informational meetings with local communities to describe the scope and benefits of proposed projects, as well as actions that will be taken to mitigate any negative effects they may have.

# Honduras

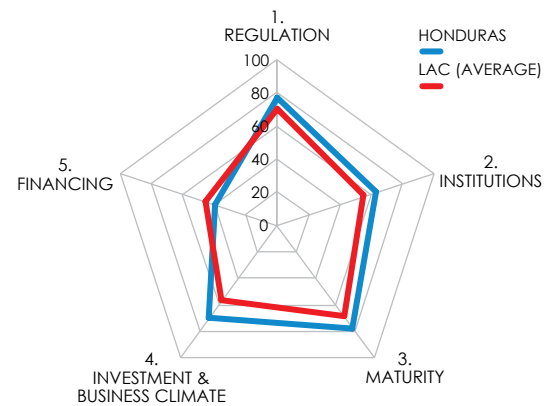


## Brief overview of the infrastructure sector and PPPs

In 2010, in the wake of the global economic crisis, the government of Honduras issued Legislative Decree 143 of 2010, the Law for the Promotion of Public Private Partnerships (Ley de Promoción de la Alianza Público-Privada, PPP Law) and Executive Decree No. 02073-2010 of 2010, the General Regulation for PPP Promotion Law (Reglamento General de la Ley de Promoción de la Alianza Público-Privada, PPP Regulatory Decree). These laws define the regulatory environment for implementing PPP projects. The framework has been effective in promoting investment and the country has experienced a moderate recovery driven in part by investments in public infrastructure. Honduras has implemented 22 PPP projects with a total value of approximately US\$3.1bn under the 2010 framework; these include two terminal projects, four highway projects and 16 renewable energy projects. The work has supported national goals to promote sustainable development by improving transport infrastructure and increasing renewable energy capacity. Oversight and operations are consolidated at the national and local level under the PPP agency, the Commission for Public-Private Partnership Promotion (Comisión para la Promoción de la Alianza Público-Privada, COALIANZA) and the Secretariat of Finance (Secretaría de Finanzas, SEFIN), which oversees fiscal viability. The Superintendencia de Public-Private Partnerships (Superintendencia de Alianza Público-Privada, SAPP) is responsible for regulation and monitoring the performance of projects once they have been contracted.

## Brief overview of the enabling environment for PPPs

Honduras has a comprehensive legal framework that is conducive to PPP implementation under various contract types. Specifically, as noted above, the Law for the Promotion of Public Private Partnerships and the General Regulation for PPP Promotion Law define the criteria, rules and procedures for implementing PPPs. The PPP Law allows for 20- to 40-year contracts with appropriate risk allocation and financial support from the government or user payments. Selection criteria include: economic and financial sustainability, value for money and fiscal responsibility, adequate risk distribution, and adherence to the rights and interests of public works and services. The PPP framework is



applicable across all sectors, including transportation, water and energy. PPPs are a key method for developing economic and social infrastructure, and the PPP agency, COALIANZA, is working with donors and international consultants to implement its pipeline of projects. During 2016 and 2017, several projects in urban infrastructure, ports, airports, energy, services, agribusiness, mining and information technology have been planned or are underway.

## Main challenges in terms of PPP (infrastructure) development

COALIANZA aims to promote competition, corporate ethics, social and environmental responsibility, and inclusive growth. The main challenge it faces is ensuring these principles are met given the high number of projects it has developed in the past five years. To do this, it is working with donors and international consultants to design projects and define appropriate parameters for measuring performance. Transparency is a key pillar of the PPP process and COALIANZA is building a strong track record in the region. The agency publishes all relevant documents online, including project descriptions, prequalification notices, awards, legislative decrees and contracts. In December 2016, the international community recognised the country's achievement in increasing transparency. Honduras won third place in the Open Government Awards for making the government more accountable in construction and infrastructure spending.

# Jamaica

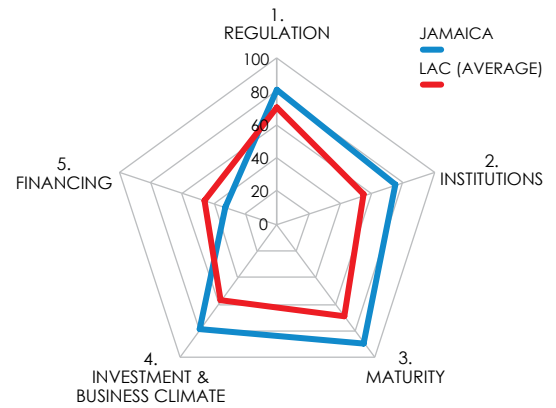


## Brief overview of the infrastructure sector and PPPs

The government of Jamaica issued its PPP framework, "Shaping New Partnerships for National Development: Policy and Institutional Framework for the Implementation of a Public-Private Partnership Programme for the Government of Jamaica: The PPP Policy", in 2012. Since then, Jamaica has closed five projects with a total investment value of approximately US\$1.3bn. The largest project is a 50-year concession for the North-South Link of Highway 2000 that was awarded in 2013 and completed in 2016 at a total cost of approximately US\$730m. Three projects are in renewable energy (solar and wind) and the most recent PPP is the Kingston Container Terminal Project, which reached financial closure in 2016. The Privatisation Agency and the PPP unit within the Development Bank of Jamaica (DBJ) centralise the management and co-ordination of the PPP programme, and aim to ensure that each PPP project is identified, developed, evaluated and implemented through a consistent process. The PPP node within the Ministry of Finance and Planning (MOFP) is responsible for value-for-money assessments and for managing the fiscal impacts of PPP projects.

## Brief overview of the enabling environment for PPPs

As noted above, Jamaica has a comprehensive legal framework for the identification, development, assessment, implementation and management of PPPs. Projects must be viable, achieve value for money, be marketable and demonstrate fiscal responsibility. Also, PPPs are limited to assets with a value greater than US\$10m and tenure of at least ten years. The policy is intended to be applicable across all sectors except housing, which must comply with the PPP policy of the Ministry of Housing. The Cabinet and the Privatisation Committee of the Cabinet are responsible for strategic oversight of PPPs, while the PPP unit of the DBJ and the PPP node within the MOFP are tasked with operational management of PPPs. The Cabinet has final decision-making power over issues, including



the PPP priority list, contract approval and renegotiation, and changes to the PPP policy. In 2016, the DBJ held several workshops to review concession agreements and closed the Kingston Container Terminal project.

## Main challenges in terms of PPP (infrastructure) development

The main challenge the government of Jamaica faces is building the institutional capacity and knowledge to be able to execute projects in a consistent and efficient manner. It has dedicated sufficient resources and is working with international donors and consultants to implement the PPP policy framework and to develop standard procedures and contracts. The goal is to build institutional knowledge, especially around designing projects and risk allocation. To date, the government has used the PPP modality to build a road, renewable energy plants, and a container terminal, but efforts to build an airport have not been successful. The government tendered the Norman Manley Airport project in 2014, but did not receive any bids for it. The project is being relaunched in 2017.

## Mexico

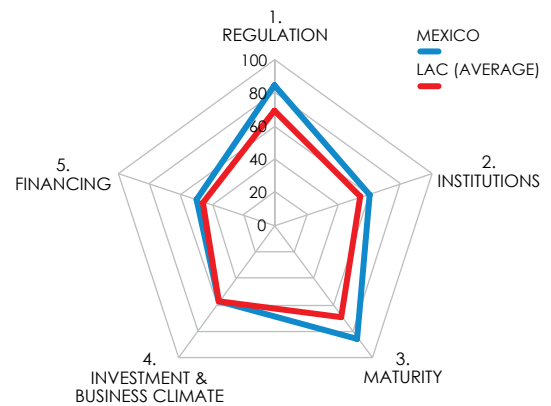


### Brief overview of the infrastructure sector and PPPs

Mexico has awarded a total of 266 PPP infrastructure projects worth approximately US\$142bn during the period 1990–2016. According to the World Bank PPI Database, the projects that reached financial closure during the period included: six airport projects worth US\$3.3bn; 48 electricity projects totalling US\$14bn; 15 information and communication technology (ICT) projects at US\$76bn; 36 natural gas projects worth US\$9bn; 29 port projects totalling US\$2.5bn; eight rail projects worth US\$6.2bn; 72 road projects amounting to US\$25.7bn; and 52 water and sanitation projects worth US\$5.1bn. While ICT projects have accounted for the largest investment share since 1990, more recently (between 2014 and 2016) the natural gas sector has received the greatest investment (US\$5.7bn). The National Infrastructure Plan 2014–2018 (Programa Nacional de Infraestructura) launched in 2014 contains six main pillars worth Ps7.7bn: communication and transport, energy, hydraulics, health, urban development and housing and tourism.

### Brief overview of the enabling environment for PPPs

On January 16th 2012, Mexico approved a new Law on Public-Private Partnerships (Ley de Asociaciones Público Privadas), followed by a new regulatory framework (Reglamento de la Ley de Asociaciones Público Privadas) on November 5th 2012. This framework is an alternative contracting mechanism to the fee-for-services scheme (Pago por Servicio, PPS), which had been used since the 1980s and under the Public Acquisitions Law of January 4th 2000 (Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público). The new legislation replaces the Public Acquisitions Law as well as the Public Works Law (Ley de Obras Públicas y Servicios Relacionados), and can apply at the federal as well as regional and municipal levels. The new law allows the federal government to develop PPP projects for transport, such as interstate roads, airports, seaports and railroads. Another feature of the law is that when PPP projects are developed with federal funds, payments will have priority within the budgetary process, provided some conditions are met. There is no agency at the federal or state level that is exclusively responsible for PPPs, though Article 8 of the Law on Public-Private Partnerships stipulates that the Ministry of Finance and Public Credit has the power to interpret the law for administrative purposes.



### Main challenges in terms of PPP (infrastructure) development

PPPs are still not very well known in Mexico and are mostly considered as an option by more market-oriented states. However, there is high-level support for the mechanism in the central government, as the current president is a major advocate for the use of PPPs. In light of this, one of the main challenges is to expand PPPs to different states with potential new applications, which can be done through engaging with policymakers and the general public to educate them about the PPP mechanism. In institutional and operational terms, PPP agencies at the federal level tend to be slow paced. Adopting the institutional and operational framework as envisioned in the Program for the Promotion of Public-Private Associations in Mexican States (Programa para el Impulso de Asociaciones Público-Privadas en Estados Mexicanos, PIAPPEM) at the central level would be a good initiative to streamline these processes. The National Infrastructure Plan 2014–2018 provides a major opportunity for greater expansion of the PPP mechanism. The budget constraints at state and federal levels also provide an opportunity to expand the use of PPPs.

# Nicaragua

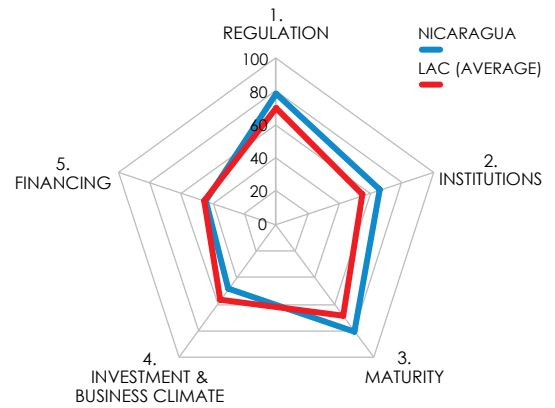


### Brief overview of the infrastructure sector and PPPs

In the past five years, private investment for infrastructure in Nicaragua has been allocated mainly to the electricity and telecom sectors. Between 2010 and 2015, seven projects have been completed in these sectors, representing a total investment of approximately US\$1.9bn, of which US\$698m was allocated to electricity and US\$1.2bn to telecom. The Ministry of Finance and Public Credit, through the Department of Public Investment, developed public investment projects and launched several infrastructure projects. These included the construction of a port on the Atlantic coast, with an estimated cost of US\$400m, and the Lira hydroelectric project on the Coco River, with an estimated cost of US\$130.9m.

### Brief overview of the enabling environment for PPPs

In 2016, Nicaragua passed a new legal framework, the Public Private Partnership Law (Ley de Asociación Público Privada, also known as the PPP Law), which regulates private-sector participation in the formulation, contracting, financing, execution, operation and finalisation of PPP projects. An additional law outlining specific regulations of the PPP Law is currently pending. The PPP Law tasks the Department of Public Investments, Ministry of Finance and Public Credit of Nicaragua with supporting the contracting institutions of the state to structure and develop PPP projects. The Agency for the Promotion of Investments and Exports (PRONicaragua) functions as the official investment promotion agency of the state, responsible for facilitating co-ordination efforts among institutions and alliances among the public, private, civil society and academic sectors. The government has prepared a list of projects that may be implemented through PPP structures, which will depend on securing sources of financing. Those projects, in the road, airport, rail-road, seaports and water sectors, are described in the document "Policies and Development Projects", designed to boost investment in Nicaragua in the period 2017–21. One US\$340m project in the telecommunications sector, to be carried out with private investment, reached financial closure in 2015.



### Main challenges in terms of PPP (infrastructure) development

One of Nicaragua's key challenges is to ensure that the new PPP law functions as intended and in an efficient manner to improve the infrastructure gap. The country's development strategy aims to overcome the main challenges to infrastructure growth, specifically in the energy and transport sectors. Electricity coverage remains below the Central American average, and the country is overly reliant on oil for power generation, leaving it susceptible to rising oil prices. And according to the IDB, only 20% of roads are in good condition. The government has identified several projects to be carried out under the PPP scheme, intended to enhance transport infrastructure and accessibility of land routes, border crossings, ports and airports. In the electricity sector, a major challenge for the government is to bring the production facilities to a sustainable level. National and foreign investment of US\$5.2bn is expected to fund projects in all six sectors.

# Panama

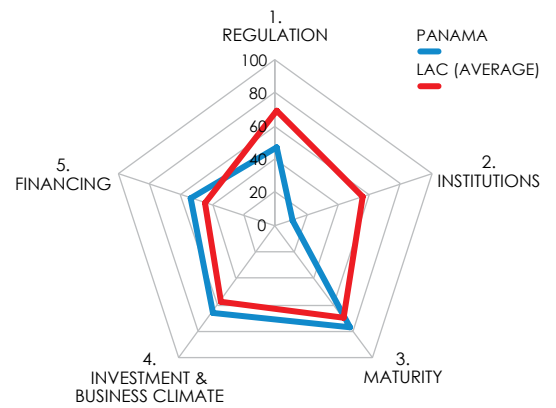


### Brief overview of the infrastructure sector and PPPs

Panama has awarded a total of 36 PPP infrastructure projects worth approximately US\$10.1bn during the period 1990–2016. According to the World Bank PPI Database, the number of projects that reached financial closure, by sector, included: 18 electricity projects worth US\$3.2bn; four information and communication technology projects worth US\$3.8bn; four port projects totalling US\$974m; one rail project valued at US\$75m; two road projects worth US\$507m; and three water and sanitation projects totalling US\$25m. There is not a high level of concentration, where a few firms have won a major share of PPP contracts. Indeed, several firms from different countries share PPP contracts in Panama, including AES Corporation (US), Cable and Wireless (UK), Grupo Argos (Colombia), PSA Corp (Singapore), America Movil (Mexico), Digicel (Bermuda), and Telefonica SA (Spain), among others. In 2013, Panama invested US\$3.1bn (6.9% of GDP) in infrastructure, mainly in transport, with private investment representing 24% of the total.

### Brief overview of the enabling environment for PPPs

In 2011, the government of Panama sent a PPP law (Law No. 349) to Congress, but it was ultimately withdrawn when faced with opposition from public-sector workers, who felt that their job security was threatened by greater private-sector participation. There are several legal frameworks by which private capital can be used in public projects across various sectors. Law No. 2 of January 2nd 1997, "which provides the regulatory and institutional framework for the provision of drinking water and sewerage and sanitation services", for example, established a regulatory framework that would permit the incorporation of private capital in the water and sanitation sector. Law No. 6 of February 3rd 1997, "which provides the regulatory and institutional framework for the provision of public electricity services", established the regulatory framework for the electricity sector, which removed vertical integration of the state's electricity monopoly



(generation, transmission and distribution) and privatised the distribution segment; generation companies would sell to distribution companies through long-term contracts. The Ministry of Public Works has a wide range of responsibilities and powers regarding concessions, as granted by Law No. 5 of April 18th 1998, "which establishes and regulates the system for the execution of public works by the administrative concession system and adopts other provisions", and is responsible for preparing studies, contracting construction and monitoring projects. Although other sectoral entities exist, none are important enough to serve as a counterweight to the ministry.

### Main challenges in terms of PPP (infrastructure) development

Panama uses a public procurement law to introduce private capital into large infrastructure projects. The law faces challenges in terms of efficiency and transparency, however. In addition, there is the problem of public trust in PPPs. The main challenge, then, is to convince the general public that a PPP law brings value for money to the nation, and good practices, along with strong institutions, to counter opacity.



# Paraguay

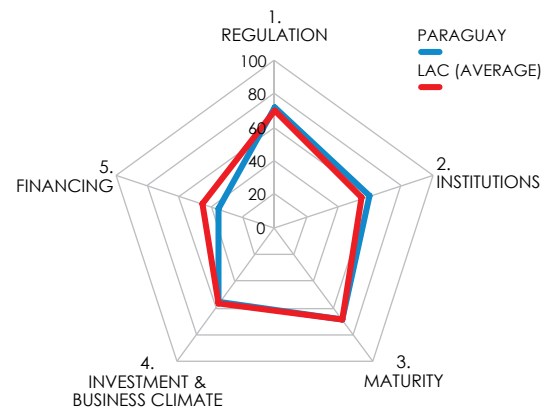


## Brief overview of the infrastructure sector and PPPs

The government of Paraguay has been making efforts to address the severe gaps in its infrastructure, which ranks amongst the worst in the world. According to the World Economic Forum's 2016–17 Global Competitiveness report, Paraguay ranks 122nd out of 138 countries in terms of infrastructure quality. As part of its efforts to improve, the government passed a PPP law in 2013 to boost private-sector investment in infrastructure. Also, between 2013 and 2016, the Ministry of Public Works and Communications (MOPC) invested US\$2.52bn in infrastructure, higher than the total amount invested between 1997 and 2012 (US\$2.46bn), according to a report from the Ministry of Finance. For 2017, the MOPC budget is expected to be US\$562m; investments will be made in several infrastructure projects, focusing on connecting and paving roads and expanding the sewerage network. The government hopes to tender US\$5bn in infrastructure projects by 2018, according to the 2016 MOPC management report.

## Brief overview of the enabling environment for PPPs

Since the implementation of the Law of Investment Promotion in Public Infrastructure, Expansion and Improvement of Goods and Services Provided by the State (Ley de Promoción de la Inversión en Infraestructura Pública y Ampliación y Mejoramiento de los Bienes y Servicios a Cargo del Estado) in 2013 (the PPP law), the government has been promoting the legislation to boost infrastructure investment. The law created a PPP unit (Unidad de Proyectos de Participación Público-Privada) within the Ministry of Planning (Secretaría Técnica de Planificación del Desarrollo Económico y Social), which is in charge of the development, co-ordination and execution of all PPP projects. The MOPC is the leading contracting authority, while the Ministry of Finance oversees fiscal issues related to the projects. In 2016 the government awarded the first project under the PPP framework (the



expansion of Highways No. 2 and 7), while a second project, the expansion and upgrade of the Silvio Pettrossi airport in the capital, Asunción, is currently under evaluation. The government is also developing other large infrastructure initiatives, such as the Transchaco Highway (Route 9) and the rehabilitation of 800 km of rural roads.

## Main challenges in terms of PPP (infrastructure) development

Paraguay is still in the early stages of developing PPP infrastructure projects. As such, the lack of experience under a PPP framework is a challenge, as it has yet to have a completed PPP project that could serve as a template for future projects. Another challenge is the lack of concentrated population and agriculture production, which reduces the flow of transported products and compromises the financial feasibility of road PPPs. Access to financing is also a problem, as the country does not have a developed capital market, and there are no guidelines through which institutional investors can participate in the funding of infrastructure projects.

## Peru

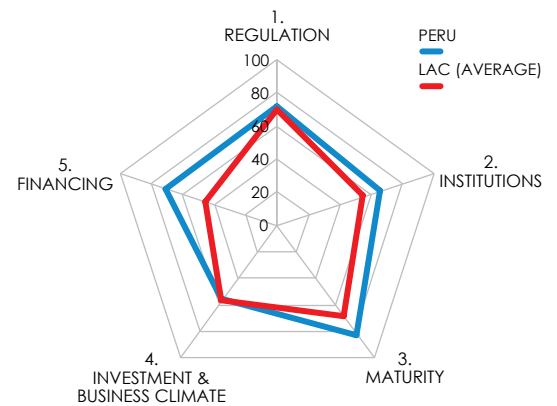


### Brief overview of the infrastructure sector and PPPs

Peru has awarded a total of 130 PPP infrastructure projects worth approximately US\$48.7bn during the period 1990–2016. According to the World Bank PPI Database, the projects that reached financial closure during that period included: four airport projects worth US\$687m; 75 electricity projects totalling US\$15bn; nine information and communication technology (ICT) projects amounting to US\$15.5bn; three natural gas projects worth US\$1.8bn; six port projects totalling US\$2bn; five rail projects worth US\$6.8bn; 21 road projects amounting to US\$5.6bn; and seven water and sanitation projects worth US\$1.3bn. While ICT projects have accounted for the largest investment share since 1990, more recently (between 1995 and 2016) the electricity sector has received the greatest investment (US\$14.6bn). According to Infralatam, in 2013, Peru's total infrastructure investment was US\$11.7bn (5.8% of GDP), up from US\$9.8bn (5.1% of GDP) in the previous year. Public investments represented 55% of the total and private investment came in at 45%. Investment in the energy sector reached US\$2.9bn (or 1.5% of GDP), compared with US\$2.3bn (or 1.22% of GDP) in 2012. For 2013, infrastructure investment for the water and irrigation sector was US\$1.9bn, while US\$5.7bn was spent in transport and US\$1.1bn in telecom.

### Brief overview of the enabling environment for PPPs

In the early 1990s, the government of Peru changed its economic model and began to promote private-sector investment through privatisation and concession processes. In that context, Law No. 059-96 of December 27th 1996 allowed for public works to be contracted out for highways, water sanitation projects and airports. Specifically, this law consolidated the rules that regulate the delivery of concessions to the private sector for public works of infrastructure and public services. However, it was not until 2008 that the first PPP framework was enacted by Legislative Decree No. 1012, aimed at regulating private investment and the participation of various government bodies in the project approvals process. More recently, in 2015, a new PPP framework (Legislative Decree No. 1224 and Supreme Decree No. 410-2015) came into effect with the goals of reducing the infrastructure gap, aligning PPP regulations with international best practices (ie, OECD) and consolidating PPP-related regulations into one decree. This framework introduced new elements such as the creation of the National System of Promotion of Private Investment, planning tools such as "Investment Multiannual Reports", and more simplified and efficient processes. Furthermore, with a new government in place, Legislative Decree No. 1251 of No-



ember 30th 2016 (as regulated by Supreme Decree No. 068-2017-EF and pending ratification by Congress) amended Legislative Decree No. 1224 (as regulated), with the goal of further optimising PPP processes, setting clear boundaries between MEF and Proinversion (Peru's Private Investment Promotion agency), modifying corporate governance and functions, introducing regulation to enhance transparency and preventing corruption, among others.

### Main challenges in terms of PPP (infrastructure) development

Despite continued improvement in the development of PPPs in the past decade, unresolved institutional and operational problems remain, such as insufficient co-ordination and unclear definitions of jurisdiction and competencies among relevant entities; constant renegotiation processes (particularly in the early years of PPP contracts); substantial delays in the execution phase (eg, land issues, permits and licences); lack of standard contracts; and the absence of strategic planning and prioritisation of projects. The recently revised PPP framework and complementary new regulations try to address these complex matters by clarifying functions among relevant parties, creating mechanisms to unblock awarded PPP projects, setting the basis for a National Infrastructure Plan, creating a National Infrastructure Fund, and improving PPP processes, among other things. However, these regulations are new and/or pending implementation, and it is too early to assess their impact. Another challenge is the difference between technical capacity for developing PPPs in the capital, Lima, and in other regions. It is clear that greater support to regional and local governments is required in planning, evaluation, formulation and monitoring PPP projects.

# Trinidad and Tobago

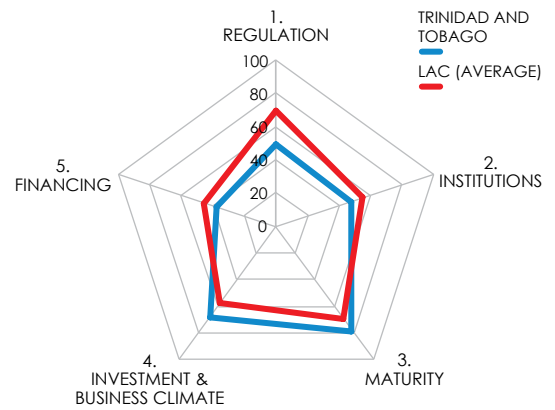


## Brief overview of the infrastructure sector and PPPs

In 2012, the Cabinet of Trinidad and Tobago approved the National PPP Policy, which provided a framework for developing and implementing PPP projects and left specific details to be determined in each project. The policy created a PPP unit within the Ministry of Finance (MOF), which was charged with developing policy, screening projects and working with contracting agencies to launch PPPs. Since 2012, the momentum for implementing this modality has stalled. The PPP unit is not yet fully staffed and continues to rely on outside consultants for technical assistance. The government continues to work on PPPs in education and health, but has not yet closed these projects. In 2016, the government closed on one PPP plan, the Mahogany Court project, to build government housing valued at approximately USD\$21m. According to the World Bank's PPI Database, there have not been any other PPP projects in the country.

## Brief overview of the enabling environment for PPPs

The National PPP Policy, which was approved in 2012, defines the general framework for PPPs. The PPP unit within the MOF is responsible for developing and disseminating PPP policy, regulating the PPP programme, contributing to the development of projects and building institutional knowledge. The policy also created the PPP Ministerial Committee, which guides policy development, reviews potential projects and supervises the PPP unit, execution teams and contract management teams. The Cabinet must approve all projects twice: once before they go into the tender process and again before signing the final contract. In 2015, the government issued the Public Procurement Law (Act 1 of 2015), which applies to PPPs and aims to increase transparency in the procurement process. The law created the Office of Procurement Regulation, which monitors the procurement of goods and conducts audits and periodic inspections of public bodies to ensure compliance with the legal frame-



work. As noted above, a key development in the past year was the Mahogany Court housing project that began construction in November 2016 and is expected to be completed in 2018.

## Main challenges in terms of PPP (infrastructure) development

The economy of Trinidad and Tobago, which is largely based on oil and gas production, is now facing the challenge of adjusting to a low energy price environment. This may bring some momentum to the PPP movement as the government seeks to develop infrastructure in order to drive social and economic development. Although institutional knowledge remains low, the government can tap international resources to build capacity and launch projects. Another challenge is to continue to increase transparency and governance. The general climate for foreign investment is open, but historically some projects have been publicly tendered and then awarded without clarity on how decisions were made. The Public Procurement Act of 2015 is a step in the right direction.

# Uruguay

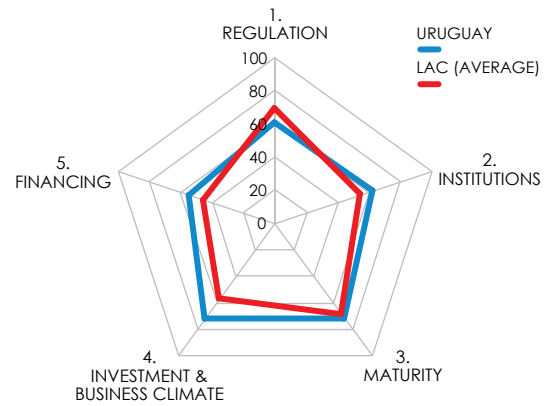


## Brief overview of the infrastructure sector and PPPs

Uruguay began to implement PPPs following passage of the Public-Private Partnership Law (Ley de Participación Público-Privada – No. 18876) in 2011 and regulatory decrees in 2012 and 2015. The law and subsequent decrees allow for PPP contracts in the areas of transport, prisons, schools, healthcare facilities, social housing, waste management and energy infrastructure. Water and sanitation services are excluded as they are handled by state monopoly Obras Sanitarias del Estado (OSE). With infrastructure investment marked as a priority by President Tabaré Vázquez, the government launched a US\$12.7bn plan for 2015–19 as part of a National Infrastructure Plan (Agenda Nacional de Infraestructura 2015–30), a third of which is expected to be awarded under a PPP structure. In October 2016 a US\$350m fund (Fondo de Deuda para Infraestructura en Uruguay – CAF I) for infrastructure projects was created, which, according to the most recent report from the International Monetary Fund, represents a promising step towards mobilising financial resources for PPPs.

## Brief overview of the enabling environment for PPPs

Uruguay's legal framework for PPPs is the Public-Private Partnership law (Ley de Participación Público-Privada – No. 18876) and its regulatory decrees No. 17/012, 208/012 and 251/015. The unit in charge of assessing financial risk and the cost-benefit analysis of projects is the PPP unit (Unidad de Proyectos de Participación Público-Privada) of the Ministry of Economy and Finance (MEF, Ministerio de Economía y Finanzas). The Office of Planning and Budget (OPP, Oficina de Planeamiento y Presupuesto) evaluates the financial feasibility of PPP projects, while the quasi-government entity Corporación Nacional de Desarrollo (CND) is in charge of promoting PPPs, developing technical guidelines, and providing advice in the selection, structuring and contracting of PPP projects. The contracting authority depends on the type of project that is to be tendered; the Ministry of Transport



and Public Works (MTO), for example, is in charge of all transport-related projects. As of January 2017 two projects have been awarded: a prison complex (awarded and under construction), and the expansion of Routes 21 and 24 (awarded on a provisional basis). A third project, the construction of childcare and kindergarten facilities, was announced in December 2016.

## Main challenges in terms of PPP (infrastructure) development

The ramp-up for the development of PPP projects in Uruguay has taken longer than expected, as the legislation includes several stages and processes that a project must follow before being tendered. The slow pace has been acknowledged by some government authorities, such as the Public Works Minister, Víctor Rossi. Given Uruguay's relatively small size and that of the PPP projects tendered thus far, interest from major global infrastructure players is limited. While funding from institutional investors, such as pension funds, exists, the speed of the process for awarding projects remains slow. The deepening of capital markets could help support the funding of PPP projects.

# Venezuela

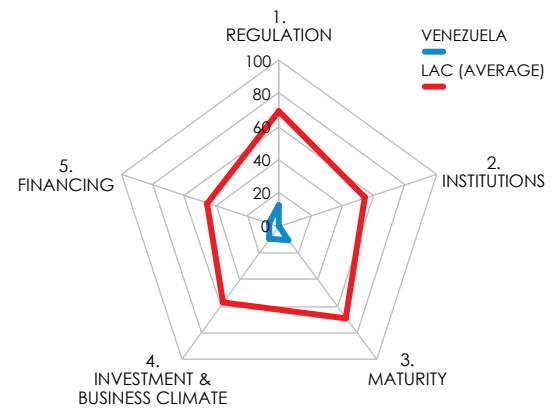


## Brief overview of the infrastructure sector and PPPs

Infrastructure investment is mainly financed by the public sector. While there are a few concession agreements in force (for example, in solid waste services and passenger transportation at the municipal level, and in the aeronautical transport sector at the national level) the PPP model is not in use in the country as a procurement modality. Rather, private investments are done either through joint ventures with public companies (mainly in the oil sector to produce half the country's oil), in which the state is the controlling shareholder, or through bilateral investment treaties (of which there are 25 in force). The state has absorbed all activities of the strategic sectors. Electricity, ports and airports, and sanitation and water have all been nationalised, and the provision of these services has been centralised at the national level. There are no official statistics on overall infrastructure spending, though gross fixed investment as a percentage of GDP has declined from 20.3% in 2012 to an estimated 16.2% in 2016, according to data from The Economist Intelligence Unit.

## Brief overview of the enabling environment for PPPs

There is no legal framework for PPPs in Venezuela, although the PPP model could be implemented by interpretation of the Concession Law No. 318 of September 17th 1999 (Decreto con Rango de Ley de Promoción de la Inversión Privada Bajo el Régimen de Concesiones de 1999) and the Public Contract Law No. 1399 of November 19th 2014 (Decreto con Rango, Valor y Fuerza de Ley de Contrataciones Públicas de 2014). The latter regulates the contracting of public works, services and supplies, but includes some provisions that could be applied to PPPs, as in the case of "Strategic Alliances" and "Commercial Alliances". Neither the Committee of Concessions provided for in the Concession Law nor the National Contracting Service provided for in the Public Contract Law—which are responsible for planning and supervising compliance with public procurement procedures and inspecting awarded contracts—represent independent bodies. The former does not exist in practice and the



latter has proven ineffective, as the government has centralised power. The institutional framework has deteriorated since January 2016, when the opposition party became the majority in Parliament. The government has taken a series of measures to tighten Parliament's control and limit lawmakers' power, which is not creating a conducive environment for PPPs. For instance, 90% of the laws in force in Venezuela have been enacted by unilateral decrees issued by the executive branch of the government.

## Main challenges in terms of PPP (infrastructure) development

Besides the lack of a legal and institutional framework for PPP development in infrastructure, the economic and political environment in Venezuela is unstable. Although the government officially encourages private investment, the environment for private companies is not attractive. Before entering into PPP contracts, Venezuela must re-establish private-sector confidence by improving the investment climate. The implementation of PPP contracts in infrastructure requires long-term planning and a reliable institutional framework. At the moment, PPP projects in infrastructure are not on the political agenda.

# Appendix I

## Project background

### Infrascope background

The first version of the Infrascope methodology was created by The Economist Intelligence Unit's research team in consultation with the Multilateral Investment Fund at the Inter-American Development Bank (IDB) and a wider group of sector stakeholders. A first edition of the Infrascope was published in 2009 for Latin America and the Caribbean. The index results were updated in 2010, 2012 and 2015. The Infrascope methodology subsequently expanded to other regions to cover Asia (2011 and 2014), Eastern Europe and the Commonwealth of Independent States (2012) and Africa (2015).

This current edition of the Infrascope features a new methodology created in 2016 to reflect the latest industry developments for infrastructure PPPs. With the financial support of the World Bank Group, The Economist Intelligence Unit designed a research programme focused on identifying key recent developments in the regulatory, institutional and business environment to enable PPP implementation. The first step of the process was conducting a literature review of the latest academic and industry publications to identify key concepts, debates, metrics and sources of evidence on PPP practices. This research was the foundation for the development of a new Infrascope framework.

The second step was to produce a revised indicator framework and discuss it with a panel of experts. In September 2016 The Economist Intelligence Unit convened an Advisory Committee of experts on public-private partnerships (PPPs). Held in Washington, DC, the meeting had the participation of more than 20 representatives from the Asian Development Bank (ADB), the Inter-American Development Bank (IDB), the European Bank for Reconstruction and Development (EBRD) and the World Bank, as well as from the

private sector and government agencies. The meeting focused on validating the principles of the new methodology and on gathering expert advice on the best qualitative and quantitative indicators for measuring the environment for infrastructure PPPs. After a thorough analysis of all issues raised The Economist Intelligence Unit developed a revised indicator framework, involving additional rounds of consultations with the development banks.

In line with the original methodology, the framework is designed to evaluate the capacity of countries to implement sustainable and efficient public-private partnerships by dividing the PPP project life cycle into five components:

- 1) A country's legal and regulatory framework for private participation in infrastructure;
- 2) The design and responsibilities of institutions that prepare, award and oversee projects;
- 3) The experience of implementing PPP projects and governments' ability to uphold laws and regulations;
- 4) The business, political and social environment for investment; and
- 5) The financial facilities for funding infrastructure.

However, given substantial changes in the methodology of the study, the results from past editions of the Infrascope are not directly comparable with those in this edition.

The revised methodology includes 23 indicators, with 66 qualitative sub-indicators and 12 quantitative sub-indicators (a total of 78 sub-indicators).

For enhanced objectivity of qualitative indicators, the scoring framework is mostly based on binary or dichotomous indicators (1=yes and 0=no). Scores are based on evidence obtained by re-

searching local laws and regulations, examining specialised reports and conducting interviews with experts and key stakeholders. The quantitative indicators rely on available data from sources such as the World Bank Private Participation in Infrastructure Database and The Economist Intelligence Unit's own proprietary business environment and risk indicators.

This new methodology is being applied in 2017 for an assessment of 19 countries in Latin America and the Caribbean (LAC) and 13 countries across Eastern Europe, Central Asia and the Southern and Eastern Mediterranean (EECA-SEMED).

## New themes in the Infrascope framework

The new methodology captures current themes and requirements for efficient and sustainable PPPs. In addition to an expanded focus on the quality of regulations based on the latest and best practices and on the adequacy and effectiveness of institutions involved in PPP processes, the study considers these new areas:

- **Sustainability:** Reflecting the principles of the UN's Sustainable Development Goals (SDGs), the Regulations category examines new attributes, including requirements to conduct environmental impact assessments and public consultations, as well as the alignment of regulatory frameworks with disaster risk management, climate change, social inclusion and gender equality. The study also considers the overall integration of the PPP programme with national infrastructure plans.
- **Fiscal control/budgeting:** Acknowledging decreasing public budgets across emerging markets, the Infrascope includes indicators concerning regulations for adequate financial planning to avoid excessive fiscal pressure. Indicators in this area include specific questions on accounting for contingent liabilities and rules on renegotiations.
- **Transparency and accountability:** Measures of transparency along the whole PPP life cycle are also a key addition to the framework. The index evaluates the existence of publication

requirements for bidding documents and contracts, PPP registries, and for the systematic monitoring and evaluation of the project. The study also considers whether information is being made easily available to the public through websites.

- **New financing instruments:** The existence of new types of institutional support for PPP programmes is also considered, including project preparation facilities, project development funds and green bonds. The index also features new metrics on the investment and business climate, such as level of concentration of the PPP market and new measures of sophistication of financing facilities, such as innovative finance and the participation of institutional investors.

## Our definition of PPPs

This study distinguishes between PPPs and the many other forms of private participation. For the purposes of the Infrascope, the term PPP refers to projects that involve a long-term contract between a public-sector body and a private-sector entity for the design, construction (or upgrading), operation and maintenance of public infrastructure to deliver quality public services. The private partner has typically provided finance and assumed significant construction, operation and maintenance risks, and is responsible for the delivery of the contract. The public sector remains responsible for policy oversight and regulation, contract execution and supervision and ultimately bears risks of private partner underperformance, and the infrastructure generally reverts to public-sector control at the end of the contract term. All countries analysed had legislation in place (whether PPP-specific or general public procurement laws) enabling projects compatible with this definition of PPPs.

Owing to the specific definition of PPP used in this study, the analysis largely excludes a country's capacity and experience regarding divestitures and management and lease contracts. In keeping with this, project figures taken from the World Bank's Private Participation in Infrastructure Database for maturity indicators include only conces-

sions and greenfield projects. A narrow focus is applied because these more complex PPPs typically fall under different legislation than divestitures, and a separate task force and more complex interaction between public and private partners are required. For example, whereas privatisations enable the public sector to receive funds in exchange for selling assets and are relatively simple to implement, in PPPs the government and/or users pay for the asset or service. This imposes stronger financial constraints on the public sector, rendering financing more complex, and also riskier. These elements are further enhanced by the fact that PPP contracts must follow a life-cycle approach to oversee quality and service standards over a long period of time, after which the asset returns to the public sector.

This report also analyses PPP facilities management in the education and healthcare sector in a special chapter. This involves the management of public facilities by the private sector under a long-term contract.

## Definitions of sectors covered

Water/sanitation refers to drinking water and sanitation projects. Transport refers to seaports, airports, roads and highways and rail. Energy refers to energy generation, specifically electricity generation. Energy extraction is not covered. The key element here is to evaluate the environment for competitive, private electricity-generation investment via concessions, which could be indefinite or fixed-term. Competition could be face-to-face or for the right to service the market.

The new methodology expands to consider the solid waste-management sector in the assessment of regulations and institutions. We refer to treatment and disposal of solid waste, including recycling and waste to energy.

The study analyses the enabling environment across all sectors with a holistic view. However, the new methodology also allows for increased flexibility for assessing countries where capacity of the public sector is located in specific sectors. The assessment considered sector-specific regulations and institutions in cases where cross-sector structures were lacking. This is intended to acknowl-

edge that countries may have developed public-sector capacity according to specific sector needs. As an example, the study awarded a point for the existence of a PPP unit in countries where this was located only in a specific sector (eg transport).

## Types of projects considered

The public-sector body remains responsible for policy oversight and regulation, with complete control generally reverting to them at the end of the contract term (Build-Operate-Transfer (BOT)). In the electricity-generation sector, we consider as PPPs either BOT or Build-Own-Operate (BOO) schemes with long-term contracts or power-purchase agreements (PPAs) with public or private distribution companies or integrated state electricity companies. Even though the power plant does not revert to the state and remains private property, we consider both BOO and these long-term contracts to be PPPs, as they differ from the integrated public utility with rate-of-return regulation. In the water sector, our analysis includes as PPPs private-sector investments via BOT and BOO schemes with incentive price regulation. Examples include water treatment and freshwater provision or fully integrated water utilities, either under a long-term contract or periodic rate-setting, as long as this rate-setting promotes efficient provision.

## Unbundling projects: when is it still a PPP?

Unbundling PPP projects has become increasingly important to generate value for money. Bundling investment, financing, construction, operation and maintenance has the potential to reduce a project's value for money by affecting competition. Such complex projects frequently require firms to form consortia to complete them, a process that can lead to significant transaction costs. In addition, private financing can be more expensive than public financing. Our minimum standard for PPPs requires the private sector to take responsibility for operation and maintenance and to face significant demand risk. At the other end of the spectrum we exclude fully privatised and integrated utilities with rate-of-return



regulation. With these limits in mind, we consider the following cases to be PPPs: when the government undertakes a project with minor initial investment and financial requirements but transfers operation, maintenance and demand risk to the private sector; when the government builds and finances a project and later transfers operation, maintenance and significant commercial risk to the private sector; and when the government provides debt financing, while the private sector contributes equity and constructs, operates and maintains the project, assuming significant demand risk. However, we exclude lease contracts from our definition of PPPs, because they are essentially financing operations in which commercial and operational risks remain with the state.

# Appendix II

## Methodology, sources and detailed indicator definitions

### i. Methodology

The methodology for this benchmarking study was created by The Economist Intelligence Unit's research team in consultation with the Asian Development Bank (ADB), the Inter-American Development Bank (IDB), the European Bank for Reconstruction and Development (EBRD), the World Bank and a wider group of sector stakeholders. The indicator list and research focus were conceptualised at a workshop attended by international and regional sector experts in September 2016.

### ii. Sources

The Economist Intelligence Unit's research team gathered data for the index from the following sources:

- Interviews and/or questionnaires from sector experts, consultants and government officials
- Surveys from national regulators
- Legal and regulatory texts
- The Economist Intelligence Unit country credit risk and operational risk products
- Scholarly studies
- Websites of government authorities
- Local and international news media reports
- The World Bank's Private Participation in Infrastructure (PPI) Database

Approximately 60 in-depth interviews were conducted with policymakers and legal and country infrastructure experts from multilateral consulting institutions and the private sector.

### iii. Calculating the index

#### a) Scoring

All qualitative indicators have been scored on an integer scale. This scale ranges from 0-1 or 0-2 scores depending on the definitions and scoring scheme formulated for each indicator. Scores are assigned by The Economist Intelligence Unit's research managers and a team of country analysts following a detailed scoring guideline.

#### b) Normalisation

Indicator scores are normalised and then aggregated across categories to enable a comparison of broader concepts. Normalisation rebases the raw indicator data to a common unit so that it can be aggregated: the integer scores are transformed to a 0-100 score.

The quantitative indicators where a higher value indicates better performance have been normalised on the basis of:

$x = (x - \text{Min}(x)) / (\text{Max}(x) - \text{Min}(x))$  where  $\text{Min}(x)$  and  $\text{Max}(x)$  are, respectively, the lowest and highest values in the 13 countries for any given indicator. The normalised value is then transformed to a 0-100 score to make it directly comparable with other indicators.

This in effect means that the country with the highest raw data value will score 100, while the lowest will score 0.

#### c) Weighting the index

At the conclusion of the indicator scoring and normalisation, The Economist Intelligence Unit selected a series of default weightings deemed appropriate for the overall index calculation (see table below). These weightings are not meant to represent a final judgment on relative indicator importance. Modelling and weighting the indicators and categories in the index results in scores of 0-100 for each country, where 100 represents the highest quality and performance, and 0 the lowest. Current overall scores in this reports are calcu-

lated based on neutral weight settings, meaning that all categories and indicators are given equal importance in the composite score.

**Table 1: Weights**

MAIN CATEGORIES	Weight %
1) REGULATIONS	20.0%
2) INSTITUTIONS	20.0%
3) MATURITY	20.0%
4) INVESTMENT & BUSINESS CLIMATE	20.0%
5) FINANCING	20.0%
INDICATORS	Weight %
<b>1.1) CONDUCIVE REGULATORY ENVIRONMENT</b>	<b>12.5%</b>
1.1.1) Public procurement and PPP contracts	33.3%
1.1.2) Codification	33.3%
1.1.3) Length of appeals in contract disputes	33.3%
<b>1.2) PPP SELECTION CRITERIA</b>	<b>12.5%</b>
1.2.1) Competitive bidding	33.3%
1.2.2) Selection criteria	33.3%
1.2.3) Economic principles for project selection	33.3%
<b>1.3) FAIRNESS/OPENNESS OF BIDS AND CONTRACT CHANGES</b>	<b>12.5%</b>
1.3.1) Publication	33.3%
1.3.2) Unsolicited bids/proposals	33.3%
1.3.3) Ratio of unsolicited proposals	33.3%
<b>1.4) CONCILIATION SCHEMES</b>	<b>12.5%</b>
1.4.1) Existence of conciliation schemes	50.0%
1.4.2) Arbitration	50.0%
<b>1.5) REGULATORS' RISK ALLOCATION</b>	<b>12.5%</b>
1.5.1) Contingent liabilities	100.0%
<b>1.6) CO-ORDINATION AMONG GOVERNMENT ENTITIES</b>	<b>12.5%</b>
1.6.1) National infrastructure plan	50.0%
1.6.2) Inter-agency co-ordination	50.0%
<b>1.7) RENEGOTIATIONS</b>	<b>12.5%</b>
1.7.1) Renegotiation procedures	33.3%
1.7.2) Transparency	33.3%
1.7.3) Independent oversight	33.3%
<b>1.8) SUSTAINABILITY</b>	<b>12.5%</b>
1.8.1) Environmental impact statement	25.0%
1.8.2) Consultation	25.0%
1.8.3) Disaster risk-sensitive investment	25.0%
1.8.4) Coherence with national policies	25.0%
<b>2.1) PPP INSTITUTIONAL FRAMEWORK</b>	<b>25.0%</b>
2.1.1) PPP dedicated agency (existence)	50.0%
2.1.2) PPP dedicated agency (staffing)	50.0%
<b>2.2) PPP DEDICATED AGENCY, STABILITY</b>	<b>25.0%</b>
2.2.1) PPP dedicated agency (reporting lines)	33.3%
2.2.2) PPP dedicated agency (independence)	33.3%
2.2.3) PPP dedicated agency procurement process co-ordination	33.3%
<b>2.3) PROJECT PREPARATION FACILITIES</b>	<b>25.0%</b>
2.3.1) Project preparation facilities	50.0%
2.3.2) Project preparation fund	50.0%
<b>2.4) TRANSPARENCY AND ACCOUNTABILITY</b>	<b>25.0%</b>
2.4.1) PPP registry	20.0%
2.4.2) National monitoring and reporting (projects)	20.0%
2.4.3) National monitoring and reporting (regulations)	20.0%
2.4.4) Monitoring of PPP project results (agency)	20.0%
2.4.5) Monitoring of PPP project results (transparency)	20.0%
<b>3.1) EXPERIENCE WITH INFRASTRUCTURE (TRANSPORT, WATER, AND ELECTRICITY) PPP CONTRACTS AS SERVICE-PERFORMANCE PROJECT DELIVERY</b>	<b>33.3%</b>
3.1.1) Number of PPP projects in transport, water, and energy that reached financial closure in the past 5 years	33.3%
3.1.2) Average PPP investment size in transport, water, and energy as percentage of GDP in the past 5 years	33.3%
3.1.3) Distress level – cancellations	33.3%
<b>3.2) EXPROPRIATION RISK</b>	<b>33.3%</b>
3.2.1) Expropriation risk	50.0%
3.2.2) Government-enforced price revisions	50.0%
<b>3.3) CONTRACT TERMINATION</b>	<b>33.3%</b>
3.3.1) Contract termination	100.0%
<b>4.1) POLITICAL EFFECTIVENESS</b>	<b>25.0%</b>
4.1.1) Political effectiveness	100.0%
<b>4.2) BUSINESS ENVIRONMENT</b>	<b>25.0%</b>
4.2.1) Business environment	100.0%
<b>4.3) POLITICAL WILL</b>	<b>25.0%</b>
4.3.1) Political will (PPPs)	50.0%
4.3.2) Attitudes towards PPPs	50.0%
<b>4.4) COMPETITION ENVIRONMENT IN THE LOCAL INDUSTRY</b>	<b>25.0%</b>
4.4.1) Level of concentration in the industry	100.0%
<b>5.1) GOVERNMENT PAYMENT RISK</b>	<b>25.0%</b>
5.1.1) Sovereign risk	25.0%
5.1.2) Government payments	25.0%
5.1.3) Government guarantees	25.0%
5.1.4) Level of concentration in the industry	25.0%

<b>5.2) CAPITAL MARKET FOR PRIVATE INFRASTRUCTURE FINANCE</b>	<b>25.0%</b>
5.2.1) Marketable debt	33.3%
5.2.3) Source of financing for PPPs	33.3%
5.2.3) Availability of sustainable finance	33.3%
<b>5.3) INSTITUTIONAL INVESTORS AND INSURANCE MARKET DEVELOPMENT</b>	<b>25.0%</b>
5.3.1) Institutional investors	50.0%
5.3.2) Guarantee fund	50.0%
<b>5.4) CURRENCY RISK</b>	<b>25.0%</b>
5.4.1) Currency risk	100.0%

## iv. Detailed indicator definitions

### 1. Regulations

**(1.1.1) Public procurement and PPP contracts:** This indicator evaluates whether the existing legal framework is conducive for PPP implementation under different types of arrangements. Do any of the below apply?

- a) PPP contracts are contemplated as a modality in public procurement.
- b) PPP contracts can be undertaken in the country under existing procurement law or policy guidelines.
- c) There is a national PPP law or other regulation that fulfils a similar role (eg in civil law jurisdictions).
- d) The country has a public procurement law, which is clear on the extent to which the law can be applied to a PPP.

Scoring:

0 = No

1 = Yes

**(1.1.2.a) Codification:** This indicator assesses whether the rules for PPP implementation have been addressed comprehensively in a unified code or document—such as regulations, guidelines or manuals—in a manner that allows for precise interpretation and implementation. Such documents would typically include details on carrying out the different PPP stages (such as procurement and contract management). Has PPP as a procurement modality been codified in manuals or policy guidelines?

Scoring:

0 = No

1 = Yes

**(1.1.2.b) Codification:** Are these manuals available online?

Scoring:

0 = No

1 = Yes

**(1.1.3.a) Length of appeals in contract disputes:**

This indicator measures whether procedures for dispute resolution, including appeals, are stipulated by the legal framework to protect investors from unilateral decisions from the government. Are there clear procedures contained in the relevant legislation or guidelines for appeals in PPP contract disputes?

Scoring:

0 = No

1 = Yes

**(1.1.3.b) Length of appeals in contract disputes:**

To avoid lengthy processes, arbitration mechanisms should be time-bound by the regulations or official guidelines/contract. Are there maximum time requirements for arbitration rulings dictated by law and/or contracts in order to avoid lengthy appeals?

Scoring:

0 = No

1 = Yes

**(1.2.1) Competitive bidding:** This indicator measures whether the legislative/regulatory framework requires competitive bidding to take place for PPP procurement. Competitive bidding fosters transparency in the procurement stage, enabling the selection of the best-value proposal based on objective criteria. Do regulations require and establish competitive biddings?

Scoring:

0 = No

1 = Yes

**(1.2.2) Selection criteria:** Project selection refers to the stage where the government determines potential projects which are suitable for PPP delivery after they are identified and proposed by contracting authorities. Project selection typically involves an appraisal based on: alignment with policy priorities, feasibility and economic viability (including cost-benefit analysis), commercial

viability, value for money and fiscal responsibility, or a "business case" analysis. In some cases, projects exceeding a certain value would be considered to be implemented as PPPs. Are selection criteria for project selection clearly outlined by regulatory agencies or other institutions?

Scoring:  
0 = No  
1 = Yes

**(1.2.3.a) Economic principles for project selection:** This indicator measures whether the regulatory framework requires cost-benefit analysis to take place during project evaluation and selection. Cost-benefit analysis is an evaluation of the potential costs and revenue that may be generated if the project is completed. Is cost-benefit analysis required by regulatory agencies?

Scoring:  
0 = No  
1 = Yes

**(1.2.3.b) Economic principles for project selection:** Value-for-money analysis compares the value of delivering infrastructure projects through PPPs against the value which could be obtained through conventional public procurement. Options analysis refers to the analysis of the most appropriate procurement method for an infrastructure project. Are options analysis and value-for-money assessment required by regulatory agencies for selecting PPPs?

Scoring:  
0 = No  
1 = Yes

**(1.3.1.a) Publication:** Bidding documents include requests for qualifications and requests for proposals, produced during the procurement stage of the PPP. Publishing the bidding documents is best practice for fairness/transparency. Does the regulatory framework require publishing of bidding documents?

Scoring:  
0 = No  
1 = Yes

**(1.3.1.b) Publication:** This question measures the openness of the procurement process. Does the regulatory framework require publishing of contracts?

Scoring:  
0 = No  
1 = Yes

**(1.3.1.c) Publication:** Public disclosure and scrutiny of contract changes are instruments to prevent opportunistic behaviour. Does the regulatory framework require publishing of changes in contracts?

Scoring:  
0 = No  
1 = Yes

**(1.3.2.a) Unsolicited bids/proposals:** Contracting agencies may define different approaches for dealing with unsolicited proposals (such as prohibition, allowing for subsequent direct negotiation, or requiring a competitive tendering process to take place), and these rules should be clearly stipulated. Are there specific policies and procedures for handling unsolicited proposals?

Scoring:  
0 = No  
1 = Yes

**(1.3.2.b) Unsolicited bids/proposals:** Consultations with affected parties/stakeholders (neighbours, minorities etc) will be an instrument in ensuring buy-in of the project among communities and improving the chances of sustainability. Unsolicited proposals would have the risk of being perceived as less transparent. If an unsolicited proposal is received, is there a requirement for consultation with affected communities?

Scoring:  
0 = No  
1 = Yes

**(1.3.3) Ratio of unsolicited proposals:** This indicator measures the ratio of unsolicited proposals to total projects in the past five years based on data from the World Bank PPI Database.

Scoring:  
The data, expressed as projects initiated as unsolicited proposals as a percentage of all projects in the past five years, is transformed to a linear, fixed range of 0-100. The country with the lowest data value scores 100 (signifies fewer unsolicited proposals) and the country with the highest data value scores 0 (signifies more unsolicited proposals). Countries with no evidence of PPP projects in the past five years also receive a score of 0.

**(1.4.1) Existence of conciliation schemes:** To avoid costly litigation, alternative dispute resolution mechanisms (ADR) may be contemplated, including conciliation, consultation, expert mediation or arbitration before escalating to the courts, with a specified timeline. Does the institutional framework provide technically adequate and efficient conciliation schemes in PPP contracts?

Scoring:

0 = No

1 = Yes

**(1.4.2.a) Arbitration:** This indicator verifies whether project agreements are subject to international arbitration as per the relevant regulatory framework. Further guidance on international arbitration may be provided in PPP contracts. It also verifies ratification of the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (1958) and the Washington Convention on the Settlement of Investment Disputes (ICSID), which indicate access to arbitration resources and enforcement. Does the law permit the contracting authority to enter into a project agreement that is subject to international arbitration?

Scoring:

0 = No

1 = Yes

**(1.4.2.b) Arbitration:** Does the country rely on an independent arbitration tribunal for the settlement of PPP disputes? As an example, Chile offers an independent (from both PPP parties) Arbitration Commission for dispute resolution in PPP projects, set out in PPP regulations. Arbitration bodies may be determined in PPP contracts and the regulations may provide guidelines on their establishment.

Scoring:

0 = No

1 = Partially (the institution does not have the final word; for example, it is used as an advisory body only).

2 = Yes

**(1.5.1.a) Contingent liabilities:** Contingent liabilities are a potential liability on the balance sheet which is dependent on the outcome of future events. They may relate, for example, to early contract termination or to debt and revenue guarantees. Do regulations establish planning frameworks

and accounting of contingent liabilities?

Scoring:

0 = No

1 = Yes

**(1.5.1.b) Contingent liabilities:** As proper accounting for contingent liabilities is a complex task, there is often a gap between guidelines and actual implementation. This indicator measures whether accounting of contingent liabilities is a consistent and standard practice. Does the Budget Office measure contingent contractual liabilities and account for delayed investment payments in a way consistent with public investment accounting?

Scoring:

0 = No

1 = Yes

**(1.6.1.a) National infrastructure plan:** Is there an approved national infrastructure plan in place in the country? An infrastructure plan typically includes key elements such as a timeline for implementation, objectives and targets. The plan should have validity for the present year (2016).

Scoring:

0 = No

1 = Yes

**(1.6.1.b) National infrastructure plan:** In developed PPP markets, screening and selection of PPP projects are guided by their alignment with priorities established in national infrastructure plans. Does the regulatory framework require the prioritisation of PPP projects in the context of the national infrastructure plan?

Scoring:

0 = No

1 = Yes

**(1.6.2.a) Inter-agency co-ordination:** Co-ordination mechanisms refer to functions assigned to a specific institution (such as an infrastructure agency or PPP unit). Alternatively, detailed guidelines may exist clarifying roles and responsibilities. Are there mechanisms for co-ordination between state agencies in the case of overlapping jurisdictions?

Scoring:

0 = No

1 = Yes

**(1.6.2.b) Inter-agency co-ordination:** Regulators may exist with the role of monitoring service standards and tariffs in sectors where PPPs are implemented. This question evaluates whether any guidance has been developed for harmonisation of sector-specific and PPP regulation, and for the definition of the roles and responsibilities, so as to avoid any conflict between these two types of entities. Does the regulatory framework provide clear guidance on aspects of interaction between bodies that have the power to award PPPs and bodies that regulate tariffs and service standards?

Scoring:

0 = No

1 = Yes

**(1.7.1.a) Renegotiation procedures:** This question measures the existence of a strategy to manage contract changes. Such strategy may be determined in the relevant PPP regulations or addressed in individual contracts. These are intended to allow unexpected changes to be made in the course of the project without the need for renegotiation. For example, an approach for regular review of tariffs may be established in the contract/regulations. Another example is the use of a "financial equilibrium" model, which provides a framework for changes in the financial terms of the contract. "Transparent" means that such mechanism is known and agreeable to the relevant parties. Is there a transparent system to manage variations in the contract?

Scoring:

0 = No

1 = Yes

**(1.7.1.b) Renegotiation procedures:** This question measures the flexibility of the legal framework for allowing grounds for termination to be defined in the most appropriate manner for each project. Does the PPP regulatory framework or the law that applies to PPPs leave open to the project agreement negotiations the list of possible grounds for termination?

Scoring:

0 = No

1 = Yes

**(1.7.1.c) Renegotiation procedures:** Renegotiations imply a change in the terms and conditions of a contract and they may undermine the

advantages of the competitive bidding process. Penalties (or compensation) for renegotiations may be established in the contract or broadly in the regulatory framework as a means to discourage opportunistic-driven renegotiations. Are there penalties for renegotiations, or is there a compensation mechanism?

Scoring:

0 = No

1 = Yes

**(1.7.2) Transparency:** Increased transparency raises the political cost of unnecessary renegotiations. If there are renegotiations, are they required by law to be disclosed publicly?

Scoring:

0 = No

1 = Yes

**(1.7.3) Independent oversight:** It is desirable that renegotiations are overseen by a body other than the contracting authority for enhanced control. Is there a system established for independent oversight of renegotiation procedures and conditions?

Scoring:

0 = No

1 = Yes

**(1.8.1) Environmental impact statement:** An environmental impact study describes the anticipated environmental impact of the PPP project. Such assessment usually takes place during project evaluation and selection. Is an environmental impact study and subsequent environmental impact statement required for PPP contracting?

Scoring:

0 = No

1 = Yes

**(1.8.2.a) Consultation:** This question evaluates the existence of a specific requirement to conduct consultations with communities which are likely to be affected by the PPP projects. This process may take place once a project has been selected for PPP procurement and ahead of the bidding process to build support from communities. But it may occur at different stages of the process. Is there a legal requirement for consultations with communities affected by PPP projects?

Scoring:

0 = No

1 = Yes

**(1.8.2.b) Consultation:** This question verifies whether consultations have been published online and the frequency of publication in the last five years. Are the findings from the consultation exercise published online?

Scoring:

0 = No

1 = Yes

**(1.8.3.a) Disaster risk-sensitive investment:** This question evaluates whether national PPP frameworks have incorporated provisions on disaster-risk or climate-change adaptation. Examples may include the explicit definitions of risk allocation considering climatic events, or the requirement of contingency plans to deal with the effects of climate change or disaster.

Scoring:

0 = No

1 = Yes

**(1.8.3.b) Disaster risk-sensitive investment:** This question evaluates whether relevant PPP regulation requires that insurance is taken out by the private party of the PPP for coverage against disaster risk. Is disaster risk included and accounted for in PPPs in the short term through a requirement for insurance for projects?

Scoring:

0 = No

1 = Yes

**(1.8.4.a) Coherence with national policies:** This question evaluates the inclusion of specific provisions on climate change (adaptation and risk) in the guidelines for PPP identification, evaluation, selection or implementation. Examples could be the incorporation of such criteria in environmental impact assessments or by requiring a special type of assessment, for alignment with national climate-change objectives or commitments. Are climate-change commitments incorporated in criteria for PPP project identification, selection and development?

Scoring:

0 = No

1 = Yes

**(1.8.4.b) Coherence with national policies:** This question evaluates the inclusion of specific provisions on gender goals in the guidelines for PPP identification, evaluation, selection or implementation. Are gender goals incorporated in criteria for PPP project identification, selection and development?

Scoring:

0 = No

1 = Yes

**(1.8.4.c) Coherence with national policies:** This question evaluates the inclusion of specific provisions on social inclusion (for example, minorities or vulnerable or rural populations) in the guidelines for PPP evaluation, selection or implementation. Are social inclusion goals incorporated in criteria for PPP projects identification, selection and development?

Scoring:

0 = No

1 = Yes

## 2. Institutions

**(2.1.1) PPP dedicated agency (existence):** "A PPP unit is established as a point of co-ordination, quality control, accountability, and information related to PPPs either within a single sector or across a range of sectors. These units are created as a new agency or within a ministry such as the finance ministry".<sup>10</sup> PPP units may be clearly labelled as such (PPP unit or PPP agency, or similar), or they could be specialised units of other departments. Is there a national PPP agency (ie, an agency responsible for promotion, technical support, oversight or other PPP-specific activity)?

Scoring:

0 = No

1 = Yes ("Yes" also implies that the agency is fully operational; the unit is considered fully operational if it exists and at least one project reached financial closure in the past year.)

**(2.1.2) PPP dedicated agency (staffing):** Is the national PPP agency adequately staffed?

<sup>10</sup> Asian Development Bank. 2008. "Public-Private Partnership Handbook". [<https://www.adb.org/sites/default/files/institutional-document/31484/public-private-partnership.pdf>]. Accessed November 2016.



Scoring:

0 = No, there is either no PPP unit in the country or the unit is not active/staffed

1 = Yes, staff are borrowed ad hoc from other departments; there is no staff with 100% dedication to the functions of the PPP agency

2 = Yes, there are full-time staff with 100% dedication to the functions of the PPP agency

**(2.2.1) PPP dedicated agency (reporting lines):**

Reporting lines are indicative of the overall strength of the institutional set-up for PPPs. Sector ministries or other public bodies can be considered in this assessment. Does the national PPP agency report directly to a line ministry?

Scoring:

0 = No, or there is no PPP unit

1 = Yes

**(2.2.2) PPP dedicated agency (independence):**

Checks and balances refer to mechanisms to prevent concentration of power, allowing regulation of public bodies. This question evaluates whether there are mechanisms in place that ensure that the PPP agency does not concentrate too much power in the PPP process and is not likely to favour the interests of a specific actor (independence). Measures to achieve this include the requirement of approval from independent or external bodies for decision-making. Are there checks and balances to ensure that the PPP dedicated agency operates independently?

Scoring:

0 = No, or there is no PPP unit

1 = Yes

**(2.2.3) PPP dedicated agency procurement process co-ordination:**

Highly developed PPP markets provide detailed guidelines for carrying out the different project stages, with roles, responsibilities and geographical jurisdictions. Are there guidelines outlining the interaction process between the different agencies in charge of preparing, procuring and management of the PPP contract and delivery process?

Scoring:

0 = No, or there is no PPP unit

1 = Yes

**(2.3.1.a) Project preparation facilities:** "Project Preparation Facilities (PPFs) support governments, investors, and developers of power projects by

helping to expedite the technical, financial, legal, and regulatory processes".<sup>11</sup> PPFs may take the form of entities providing technical or financial support. Are there established processes in place to guide the preparation, procurement, and implementation of PPPs?

Scoring:

0 = No

1 = Yes

**(2.3.1.b) Project preparation facilities:** This question assesses the existence of a specific budget for this mechanism. Is the public authority in charge of project preparation facilities given a budget to accomplish its mission?

Scoring:

0 = No

1 = Yes

**(2.3.2) Project development fund:** A project development fund (PDF) is a mechanism designed to alleviate the burden of upfront costs for procuring PPP projects. They are "designed to provide funding to grantors for the cost of advisers and other project development requirements. The PDF may be involved in the standardization of methodology or documentation, its dissemination and monitoring of the implementation of good practices. It should provide support for the early phases of project selection, feasibility studies and design of the financial and commercial structure for the project, through to financial close and possibly thereafter, to ensure a properly implemented project".<sup>12</sup> Is there an independent PDF?

Scoring:

0 = No

1 = Yes

**(2.4.1) PPP registry:** Is there a public registry of PPPs? A local PPP registry would track the execution of PPP projects, with key information, such as timeline, value and parties involved.

11 USAID. "Project Preparation Facilities Toolbox". [<https://www.usaid.gov/sites/default/files/documents/1860/PPF%20Toolbox%20REVISED.pdf>]. Accessed November 2016.

12 The World Bank. 2016. "Public-Private-Partnership in Infrastructure Resource Center". [<http://ppp.worldbank.org/public-private-partnership/>]. Accessed November 2016.

Scoring:

0 = No

1 = Yes, but not online

2 = Yes, online

**(2.4.2.a) National monitoring and reporting (projects):** This question measures whether there is up-to-date information on PPP activity in the country in an easily accessible platform. Are there regularly published reports on ongoing and upcoming concession projects? "Regularly" means that at least four updates have been published in the past year.

Scoring:

0 = No

1 = Yes

**(2.4.2.b) National monitoring and reporting (projects):** Do such reports capture information of projects across the different project phases? "Phase" refers to the life cycle of a project, such as identification, selection, feasibility/due diligence, procurement, awarding and management of contract.

Scoring:

0 = No

1 = Yes

**(2.4.2.c) National monitoring and reporting (projects):** Is the government publishing a needs assessment for each project? A needs assessment is the systematic evaluation of needs or gaps comparing current conditions with a desired situation. In the context of PPPs, these are tools that "help governments identify, screen and prioritize PPP projects, ensure that projects tie into national and regional priorities".<sup>13</sup> Publication of a needs assessment is considered best practice at the stages of project identification, selection or procurement, proving that the investment is justified.

Scoring:

0 = No

1 = Yes, but not online

2 = Yes, online

**(2.4.3) National monitoring and reporting (regulations):** Monitoring the performance of PPPs

<sup>13</sup> Public-Private Infrastructure Advisory Facility, 2016. "Rapid Needs Assessment Tool for PPP Identification of Viable Projects". [[https://ppiaf.org/feature\\_story/rapid-id-needs-assessment-tool-ppp-identification-viable-projects](https://ppiaf.org/feature_story/rapid-id-needs-assessment-tool-ppp-identification-viable-projects)]. Accessed November 2016.

implies gathering and publishing information on the development of the projects (such as delays or changes). Does the national PPP dedicated agency or equivalent gather information periodically on the performance of the PPP contracts? "Periodically" means monthly or quarterly.

Scoring:

0 = No

1 = Yes

**(2.4.4) Monitoring of PPP project results (agency):** Auditing refers to the independent review of finances, processes, performance or value for money of the PPP project, which may be conducted regularly or at certain stages of the process, or as a final evaluation. This may be the responsibility of a centralised agency or of the individual contracting bodies, as long as this role is clearly specified. Is there an agency tasked with evaluating or auditing the results of each PPP project?

Scoring:

0 = No

1 = Yes

**(2.4.5) Monitoring of PPP project results (transparency):** Are PPP project evaluations published? The emphasis of this question is on transparency and processes in place for continuous learning and improvement in PPP processes.

Scoring:

0 = No

1 = Yes, but not online

2 = Yes, online

### 3. Maturity

**(3.1.1) Number of PPP projects in transport, water, and energy and that reached financial closure in the past five years:** This indicator measures the number of PPP projects in transport, water and energy that reached financial closure in the past five years based on data from the World Bank PPI Database.

Scoring:

Higher data values produce higher scores.

0 = No evidence of projects in the market;

25 = Evidence of a handful of projects in the market (up to 10)

50 = Between 11 and 99 projects in the market

75 = Between 100 and 250 projects in the market

100 = More than 250 projects in the market

**(3.1.2) Average PPP investment size in transport, water, and energy as a percentage of GDP in the past five years:** This indicator measures the total PPP investment size in transport, water and energy in the past five years as a percentage of current GDP. Data are derived from the World Bank PPI Database and The Economist Intelligence Unit.

Scoring:

The data, measured as a percentage, are transformed to a linear, fixed range of 0-100. The country with the highest data value scores 100 (signifies higher investment relative to GDP) and the country with the lowest data value scores 0 (signifies lower investment).

**(3.1.3) Distress level—cancellations:** This indicator measures the percentage of projects cancelled in the past five years based on data from the World Bank PPI Database.

Scoring:

The data, measured as a percentage, are transformed to a linear, fixed range of 0-100. The country with the lowest data value scores 100 (signifies fewer cancellations) and the country with the highest data value scores 0 (signifies a greater number of cancellations).

**(3.2.1) Expropriation risk:** Are there examples of expropriations projects over the past ten years?

Scoring:

0 = Yes, one or more  
1 = No

**(3.2.2) Government—enforced price revisions:** Are there documented instances of the government unilaterally enforcing price revisions for services provided through a PPP? This refers to adjustments to what is originally stipulated in the contract.

Scoring:

0 = Yes  
1 = No

**(3.3.1.a) Contract termination:** Can investors appeal in case of contract termination by the government? This question evaluates whether there are frameworks in place that guarantee there is the option of appeal if facing contract termination by the government in PPPs.

Scoring:

0 = No  
1 = Yes

**(3.3.1.b) Contract termination:** Contract transfer refers to legal mechanisms designed to facilitate the continuation of the project, or exit by a company by transferring the PPP contract. Such provisions are usually indicated in project contracts, and guidance may be provided in the regulatory framework. Can investors expedite contract transfer for project exit?

Scoring:

0 = No  
1 = Yes

**(3.3.1.c) Contract termination:** Can investors obtain fair compensation for early termination? This question evaluates whether there are rules about fair compensation to investors in the case of early termination. Such provisions are usually indicated in project contracts, and guidance may be provided in the regulatory framework.

Scoring:

0 = No  
1 = Yes

**(3.3.1.d) Contract termination:** Does the PPP contract show the content of the termination procedure?

Scoring:

0 = No  
1 = Yes

## 4. Investment and business climate

**(4.1.1) Political effectiveness:** This indicator is a weighted average of The Economist Intelligence Unit's Political Stability Risk and Government Effectiveness Risk measurements.

Scoring:

The data are transformed to a linear, fixed range of 0-100. The country with the lowest data value scores 100 (signifies lower risk) and the country with the highest data value scores 0 (signifies higher risk).

**(4.2.1) Business environment:** This indicator is a weighted average of The Economist Intelligence Unit's Market Opportunities rating and Macroeconomic Risk measurements.

Scoring:

The data are transformed to a linear, fixed range of 0-100. The country with the highest data value scores 100 (signifies a better business environment) and the country with the lowest data value

scores 0 (signifies a less favourable business environment).

**(4.3.1.a) Political will (PPPs):** Have high-level political figures (prime minister, president or at the ministerial level) expressed active support for PPPs in international media or policy statements since taking office?

Scoring:

0 = No

1 = Somewhat (not enough statements were found, but at least one was found)

2 = Yes

**(4.3.1.b) Political will (PPPs):** Is there evidence of strong bipartisan or multi-party support for PPPs, including by opposition parties?

Scoring:

0 = No

1 = Yes

**(4.3.2) Attitudes towards PPPs:** Is there vocal opposition to PPPs and to private-sector participation in infrastructure projects within parliament and/or among influential advocacy organisations or political commentators?

Scoring:

0 = Yes, there is opposition from multiple sectors (more than one)

1 = Somewhat; there is opposition from one sector only, or not enough statements

2 = No, and it is clearly documented

**(4.4.1) Level of concentration in the industry:** Is there a high level of concentration in the industry where a few firms win a bulk share of PPP contracts? As an example, 50% of projects awarded to the same firm in one year would merit a "yes".

Scoring:

0 = Yes

1 = No

## 5. Financing

**(5.1.1) Sovereign risk:** This indicator measures the risk of a government failing to make debt repayments or not honouring a loan agreement. Data are derived from The Economist Intelligence Unit's Country Risk Service database.

Scoring:

The data are transformed to a linear, fixed range of 0-100. The country with the lowest data value

scores 100 (signifies lower sovereign risk) and the country with the highest data value scores 0 (signifies higher sovereign risk).

**(5.1.2) Government payments:** Are there examples of government default on PPP contracts in the past ten years? This question refers to countries failing to fulfil their obligations with private investors under PPP contracts.

Scoring:

0 = Yes

1 = No

**(5.1.3) Government guarantees:** This indicator measures the percentage of PPP projects that received a government payment guarantee in the past five years based on data from the World Bank PPI Database.

Scoring:

The data, measured as a percentage, are transformed to a linear, fixed range of 0-100. The country with the highest data value scores 100 (signifies higher utilisation of government guarantees) and the country with the lowest data value scores 0 (signifies lower utilisation of government guarantee).

**(5.1.4) Government support for low-income users and infrastructure affordability:** Are discounts in place allowing low-income users better access to infrastructure? This question considers currently valid mechanisms targeted at low-income for the use of infrastructure in the relevant sector.

Scoring:

0 = No

1 = Yes

**(5.2.1) Marketable debt:** This indicator measures whether there is a liquid, deep, local-currency-denominated, fixed-rate, medium-term (five years+) bond market in marketable debt (that is, debt that is traded freely). Data are derived from The Economist Intelligence Unit.

Scoring:

The data, measured on a scale of 0-4 where lower is better, are transformed to a linear, fixed range of 0-100. The country with the lowest data value scores 100 and the country with the highest data value scores 0.

**(5.2.2) Source of financing for PPPs:** This indicator measures the share of financing coming through

conditional loans from international financial institutions, multilateral and bilateral organisations and donor grants in the last five years. Data are derived from the World Bank PPI Database.

Scoring:

The data, measured as a percentage, are transformed on a linear, fixed range of 0-100. The country with the lowest data value scores 100 (signifies fewer conditional loans from IFIs, multilaterals and bilateral organisations) and the country with the highest data value scores 0 (signifies greater number of conditional loans from international financial institutions, multilaterals and bilateral organisations). Countries with no evidence of PPP projects in the past five years receive a score of 0.

**(5.2.3.a) Availability of sustainable finance:** "A green bond is a debt security that is issued to raise capital specifically to support climate-related or environmental projects." "A debt security is a legal contract for money owed that can be bought and sold between parties." (World Bank, 2009). Are green bonds issued in the local capital market?

Scoring:

0 = No

1 = Yes

**(5.2.3.b) Availability of sustainable finance:** Development Impact Bonds (DIBs) "are a family of outcomes-based contracts in which private investors pay in advance for interventions needed to achieve agreed results, and work with delivery organisations to ensure that the results are achieved; donors and/or governments make payments to investors if the interventions succeed, with returns linked to progress achieved. If the interventions fail, investors lose some or all of their investment." (Centre for Global Development, 2014). Are development impact bonds issued in the local capital market?

Scoring:

0 = No

1 = Yes

**(5.3.1) Institutional investors:** Have institutional investors (pension funds, insurance companies etc) participated (lending to or holding stocks) in PPP projects in the past five years?

Scoring:

0 = No

1 = Yes

2 = More than two

**(5.3.2) Guarantee fund:** This indicator measures the percentage of projects with guarantees from multilateral institutions in the past five years based on data from the World Bank PPI Database.

Scoring:

The data, measured as a percentage, are transformed on a linear, fixed range of 0-100. The country with the highest data value scores 100 (signifies larger share of guarantees) and the country with the lowest data value scores 0 (signifies smaller share of guarantees).

**(5.4.1) Currency risk:** This indicator measures the vulnerability of a country's currency based on data from The Economist Intelligence Unit's Country Risk Service. What is the country's likelihood of suffering substantial currency devaluation?

Scoring:

The data, measured as a percentage, are transformed on a linear, fixed range of 0-100. The country with the lowest data value scores 100 (signifies lower currency risk) and the country with the highest data value scores 0 (signifies higher currency risk).

# Appendix III

## Glossary

**Act of authority:** Unilateral action by the government to change the economic specifications and terms of a contract.

**Appraising:** Feasibility analyses of a project, assessment of a project, due diligence (limited to some feasibility or assessment processes), assessing the project as a PPP (for the assessment of the PPP option as a procurement alternative for the project, rather than assessing the project itself as a technical solution), project preparation, business case development (in some countries the business case is progressively developed throughout the PPP cycle—appraising activities primarily occurs at the Outline Business Case stage).

**Build-Operate-Own (BOO):** The granting of ownership rights to the private-sector partner in perpetuity to develop, finance, build, own, operate and maintain as an asset with no transfer to the public sector.

**Build-Operate-Transfer (BOT):** Transfer of responsibility for constructing, financing and operating a single facility to a private-sector partner for a fixed period of time.

**Collusion risk:** The risk that private-sector bidders or operators will create agreements among themselves that do not benefit the sustainability of a project or the government financing portion.

**Competitive bidding:** The use of objective criteria during the selection process, requiring the publishing of necessary bidding documents, contracts and changes in contracts.

**Concession:** A right granted from a government to a private-sector actor.

**Concession project:** A concession agreement is a negotiated contract between a company and a government that gives the company the right to operate a specific business within the government's jurisdiction, subject to certain conditions.

**Contingent liabilities:** A potential liability on the balance sheet which is dependent on the out-

come of future events. They may relate, for example, to early contract termination or to debt and revenue guarantees.

**Contract termination:** Project facilities are transferred to the government, usually for nil or nominal consideration and up to conditions predefined in the PPP contract.

**Cost-benefit analysis:** An evaluation of the potential costs and revenues that may be generated if the project is completed.

**Design-Build-Finance-Operate (DBFO):** Private-sector partners are asked to supply resources for having the project built, and their future revenue streams are usually based on payments made by the public sector or shadow tolls.

**Divestiture:** Full divestiture, also known as privatisation, occurs when all or substantially all the interests of a government in a utility asset or a sector are transferred to the private sector.

**Economic criteria:** Criteria for selecting PPP projects based on economic factors, such as the net present value of a project's revenue and the amount of subsidies requested by bidders or payments offered, among others.

**Equity arbitration:** A more informal arbitration regime, whereby parties attempt to resolve disputes based on fairness and equity considerations rather than using a strict application of the law.

**Expropriations projects:** The taking over by the state of a company or project, with compensation usually being paid. Creeping expropriation occurs when a government gradually takes over an asset by taxation, regulation, access or change in law.

**Feasibility study:** An analysis of the ability to complete a project successfully, taking into account legal, economic, technological, scheduling and other factors.

**Financial or economic equilibrium:** An equation that relates costs, revenue and return on investment for private-sector participants. The equilibrium principle is specified in project contracts and makes important assumptions about demand levels, proper service levels, a project's financial stability (including transfer payments to the government) and project investment costs.

**Green bond:** A debt security that is issued to raise capital specifically to support climate-related or environmental projects.

**Greenfield projects:** New construction or the development of new infrastructure.

**Hold-up risk:** The risk that private-sector actors will lengthen arbitration processes in order to skew outcomes in their favour.

**Lease contract:** A contract type in which a public entity delegates management of the public service to a private operator. The public entity—the owner of the assets—is responsible for new investments, major repairs, debt service, tariffs and the cost-recovery policy. The private operator is responsible for operating and maintaining the service, billing and investment needed for the upkeep and renewal of certain existing assets (electro-mechanical) and may also be responsible for the renewal of part of networks. The operator advises the public sector on investments and extensions to achieve. This type of contract is generally concluded for a period of 10–15 years.

**Management contract:** A contract type where public authorities transfer the responsibility for operating and maintaining the service to a private operator for a period of 3–5 years. A team of managers, seconded by private enterprise, is placed in a leadership position in the public entity to lend support in managing the service. In this type of contract, the contractor has no legal relationship with the consumer. In addition, the operator has no investments to make; this remains the responsibility of public authorities.

**Modalities:** Refers to the potential type of co-operation between public organisations and private enterprises, for example, Build-and-Transfer (BT), Build-Lease-and-Transfer (BLT), Build-Operate-and-Transfer (BOT), Build-Own-and-Operate (BOO), Build-Own-Operate-Transfer (BOOT), Build-Transfer-and-Operate (BTO), Contract-Add-and-Operate (CAO), Develop-Operate-and-Transfer (DOT), Rehabilitate-Operate-and-Transfer (ROT), Rehabilitate-Own-and-Operate (ROO), Concession Agreement, Management Contract (MC), or Service Contract (SC), among others.

**Public comparator:** A method of evaluating PPP projects where the costs of contracting infrastructure projects through full public provision and financing are used as a benchmark to assess the value-for-money benefits offered by PPP alternatives.

**Risk allocation:** Distribution of proportional risk to the parties in a contract.

**Screening:** Pre-assessing the project as a PPP; 'pre-feasibility' is used in some countries.

**Single-source bidding:** A contract awarded by way of soliciting and negotiating with one entity.

**Technical criteria:** Criteria for selecting PPP projects based on engineering, architectural design and technological aspects.

**Value-for-money (VfM) analysis:** An analysis that compares the benefits of contracting an infrastructure project through a PPP scheme with the benefits of traditional public-sector procurement and investment.

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**London**

20 Cabot Square  
London  
E14 4QW  
United Kingdom

Tel: (44.20) 7576 8000  
Fax: (44.20) 7576 8476  
E-mail: london@eiu.com

**New York**

750 Third Avenue  
5th Floor  
New York, NY 10017  
United States

Tel: (1.212) 554 0600  
Fax: (1.212) 586 0248  
E-mail: newyork@eiu.com

**Hong Kong**

1301 Cityplaza Four  
12 Taikoo Wan Road  
Taikoo Shing  
Hong Kong

Tel: (852) 2585 3888  
Fax: (852) 2802 7638  
E-mail: hongkong@eiu.com

**Geneva**

Boulevard des Tranchées 16  
1206 Geneva  
Switzerland

Tel: (41) 22 566 2470  
Fax: (41) 22 346 93 47  
E-mail: geneva@eiu.com